

(Testimony of S. A. D. Puter.)

I think it was in January—might have been February—but at any rate it was after a lot of filings was made, and just before they were all made. And I don't know whether I had seen C. A. Smith first or some other parties. At any rate, I seen him on the trip and I talked with him about another tract of land that I had in Oregon, as we had previously had a contract on 60 quarter sections that we had fell down on, and I wanted to know if he—how would he like to take it up. And he asked me where it was located and I told him in Linn County; how much there was; I told him some—between eight and nine thousand acres; he wanted to know what it would cost and I told him I thought I could deliver title for, I think it was, \$7.00 or \$7.50 an acre. Well, then he requested me to call on his agent, Fred A. Kribs, in San Francisco, as he had previously given me a letter of introduction to Kribs; and that whatever trade I made with Mr. Kribs in regard to Oregon lands would be entirely satisfactory with him and he would stay by it. So I think while I was east, I called on one or two other parties and I talked to them also about the matter. One man, I think, in Duluth; another man in—I think it was Saginaw, Michigan. But at any rate, I was banking on Mr. Smith, as I thought he was the best customer, although I concluded to have the other fellows in tow for [676—713] fear he would fall down on it. So at any rate, I went on to San Francisco, and I spoke to Mr. Kribs about it and told him the situation. He said that he would come to Oregon and he would look the matter over and if it

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was all right he would take it up with me. So I believe I met him a few weeks after that—a short time. He wanted to know what it was going to cost, and I told him that title hadn't been perfected to these lands, but I expected that I would be able to get them at a certain figure and there would be a certain amount of money required to make proof on the lands, and I would like to have him advance that money. Well, at that time he hesitated about advancing the money. He said he would go up and see about it. Well, the best of my recollection is he had come up and he had met McKinley; I had either introduced him to McKinley or given him a letter; but at any rate he went up to the lands with McKinley and Tarpley or either one of them, and was satisfied to advance the money. I told him it would be necessary for to have at least \$600 on the quarter section. And that I—I thought that I would, under the circumstances—having an equity in the land, etc.—I would be able to get hold of those lands after they proved up, and I could turn the title over to him for a certain figure. Well, there wasn't much said then. He didn't say whether he would advance the money or not. At any rate I know the Northern Pacific filed a contest against all those entries, and I went back on to Kribs again and I told him the circumstances, that I had to have somebody to back us up in the lands and that I thought I would be able to secure the lands for \$7.00 or a little less—or \$6.50. Well, at any rate, he agreed to—he said that [677—714] as we was in the deal, etc., that he would stand by and advance

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the money to make proof on those lands. So it seems that the contest was set for the same day that the proof was to be made, and of course it was necessary to have the money there, but Kribs hesitated about having the money at that time. He thought it would not be necessary to have the money there for probably some time afterwards, as the testimony would be taken and would be submitted to the General Land Office before any money, but I insisted that I thought there would be a compromise; that the Northern Pacific wouldn't appear on the case and it was best to get the money there. So he agreed—he said he would wire Mr. Smith to forward the money, and he did—informed me that the money was there. So we all went to Roseburg on the day that proof was to be taken, and the contest, and I think the contest cases started in first, which lasted about two days; and I believe I employed Mr. Crawford and Shupe. I paid them \$500 to defend me in the 57 cases. And Mr. Mays and Moulton and one or two other attorneys from St. Paul represented the Northern Pacific. Well, the first witness, I believe, was myself, or Basil Wagner—I don't know which. At any rate, Mays, he done the cross-examining for the Northern Pacific attorneys—cross-examined. We put up a pretty good case and he come up into my room, I think it was the second night about eleven o'clock at night, and he said to me: "Now, Puter, you have made a pretty good showing in this case, and the Northern Pacific attorneys is getting a little scared." He says, "I think it is a pretty good proposition for to compromise this and divide this

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tract." He says, "Just as sure as you let it go to trial and let those entrymen [678—715] take the stand, they will go like chaff before the wind and you fellows will all go over the road." So we sat up that night with Moulton and Mays and talked the matter over and finally made a settlement that we should give up 24 claims and retain 33; and the understanding at that time was that—from Mr. Moulton or from one of the attorneys, I don't know which, or from Mays—that they would give me those 24 claims at the market price. So proof was submitted on the 33, or at least on some twenty odd that was advertised for that date, and certificates issued. Now, as McKinley and I had made arrangements to pay these fellows a hundred dollars each and that idea was conveyed to them some way through some of those parties—because they all understood it, that that was the situation of the case, everyone of them—I believe the mortgages was drawn up and we both went to work that same day in procuring deeds. Some of the deeds I believe was dated—at least left blank, and I believe I paid some of the entrymen right there and then, a few of them, so far as my money went. But anyway, inside of ten days, I had procured the deeds to what proofs was made, and I met Mr. Kribs at Albany and told him that I had procured deeds to all of these lands and if he wanted it for that figure, he could take it—have them. So he then and there paid me the money. I think it was \$5.00 per quarter—or \$5.50 an acre, that we had agreed upon, and he paid me all except \$1,000 which he said that Smith had

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requested him to hold up until the patents was issued; there may be some trouble in getting patents,—some costs, and he wanted to hold out a little. So I consented and a few weeks after that the proof was put in to the other claims, and I don't recollect now whether I procured the [679—716] deeds for that or how they were gotten, but I think they were about the same way, and there was another settlement made. And the last payment was made of a thousand dollars along in December that same year, which happened to be paid to me on another transaction, so that ended the transaction with Kribs so far as it went, up before the patents was issued.

Q. In the meantime, between the time that you first saw Kribs in California in relation to the claims, and the time that the proofs were made, how often did you see Mr. Smith and talk with him in regard to the matter? A. Between what time?

Mr. LIND.—I didn't hear that question.

Q. (Read.)

A. Well, that I can't exactly tell. I may have met him the second time. I was under the impression that I had met Smith at Albany before the proofs was made, but that I am not positive of.

Q. Well, when you did meet him at Albany, what did you and he do there at Albany or where did you go?

A. We went up to look at the lands. We went to Lebanon, hired a team, went to the Mealey brothers that night. Stayed all night and the next day we went over several sections and back to Mealey's. While on the ground we estimated an

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acre here and there—looked over the timber.

Q. In your conversation with Mr. Smith there, before you went to—there before you went out to see Kribs, or rather, until you received that final payment in December, there, did you have any discussion with him generally as to how the claims had been taken?

Mr. UELAND.—We object to that as too indefinite. It makes a good deal of difference whether the conversation was prior to the entries and sale or subsequent to the [680—717] entries and sale and prior to the payment of the thousand dollars. I think the question should not be as general as that.

COURT.—Let him fix the conversation definitely, if he can.

Q. Prior to the time when you saw Puter at San Francisco there—

A. Kribs.

Q. Or Kribs—beg your pardon. Did you have any conversation with Mr. Smith as to the character of these entries, the character of the title that you had there?

A. Oh, I only told him that I could procure him eight or nine or ten thousand acres of lands at, I thought, about \$7.00 per acre.

Q. What I want to know is whether you discussed with him at that time or any time previous thereto, the method by which you were securing the title?

A. No, I don't think I did previous to that time.

Q. I call your attention to Government's Exhibit 179 as it appears in the record, and ask you to read that.

A. Yes, sir, I recollect distinctly about that.

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Q. Now, you notice the exhibit there refers to conversations had between you and Mr. Smith relative to the contest of the Northern Pacific. Now, what conversations and where had you had them with Mr. Smith relative to that matter?

A. Well, now, this is a conversation—

Q. Prior to July, 1900?

A. This refers to the 24 claims the Northern Pacific had. Now, that conversation there took place in his office in Minneapolis, or probably on the ground when he was on the land, because it was—this conversation took place after [681—718] proof was made; probably a month—two months, and I had told Mr. Smith that I was going to get the 24 claims that we give up, because he understood that I had in the neighborhood of eight or nine thousand acres in the start. I told him 57 claims. The understanding with the Northern Pacific was that they were to give me these lands as soon as they were patented at the market price, which was seven or eight dollars per acre, as I told him. And it seems that those lands was due about three months after the proofs, and he was thinking that it was about time that those patents should be issued, and he was asking me about it.

Q. Patents of the Northern Pacific scrip selections?

A. Yes, as it generally takes about ninety days for a patent to issue—in those days—on a selection.

Q. That is, on a scrip selection?

A. Yes.

Q. And in those conversations did you go into details with him as to the grounds of the contest

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that had been instituted by the Northern Pacific—

A. Yes.

Q. —railroad against the claims.

Mr. LIND.—That is immaterial at that stage. It is subsequent to the making of final proof and transfer to the defendants.

COURT.—Prior to the issuance of patents?

Mr. McCOURT.—A year—two years prior to the issuance of patents.

COURT.—It will be admitted.

A. Yes, I told him that that was a contest on this lot of land and that I had compromised with the Northern Pacific [682—719] and in order to avoid any litigation or suit we concluded the best that we could do was to give up 24 claims with the understanding that I was to get them back at the market price when patents issued.

Q. Now, how frequently did you see Mr. Smith in relation to those lands either directly or incidentally from the time the proof was made, say, the time you and he were down in the timber, until December, 1900, when you got final payment?

A. Oh, I met him, I think, a number of times. I had some other deals with him in California and talked about this every time we met; may be three or four or five times.

Q. Well, how much in detail did you ever go into the method pursued by yourself and McKinley in acquiring the lands, with Mr. Smith at that time?

Mr. UELAND.—The defendants we represent object to that as incompetent, irrelevant and immaterial, for the reason that there is no fraud charged in the bill as a ground for vacating these patents,

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except in connection with making the entries.

Objection overruled; exception saved. [683—720]

(Question read.)

A. Oh, I don't think there was much said during that time. When he would speak to me it was simply about the 24 claims, and he didn't talk very much to me until there was Government proceedings, or special agents working on the deal, and then he was frequently writing and after me to do what I could to secure patents, etc.

Q. Well, did you have any conversations with him in relation to those matters?

A. Oh, yes.

Mr. LIND.—What matters? Now, that is indefinite.

Mr. McCOURT.—What he just testified about.

Mr. LIND.—In regard to the patents, you mean?

A. Yes.

COURT.—And special agents—investigations by special agents of Government?

Mr. UELAND.—May it please the Court, may all this be covered by the same objection without repeating it?

COURT.—Yes. There is some testimony up to this time, showing Mr. Kribs was engaged with Mr. Smith in reference to false statements by the entrymen to the special agents. I presume that is what counsel had reference to.

Mr. UELAND.—We claim it is not competent against the defendants we represent because the bill does not charge any fraud in that connection.

COURT.—I understand your position. It will

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be admitted subject to that objection.

Q. Well, what conversations did you have with him in regard to the investigation made by the agent and the question [684—721] of the validity of the claims.

A. It seems as soon as Smith found out the land was being investigated, he kept after me continually, and asking my advice, and what was to be done, etc., and although I considered I was out of the thing practically, but morally I was supposed to look after the title and do what I could to issue the patents, and I would advise in the matter. And I had told him *tha* special agents in Oregon was very friendly, and there was good reports being made, etc. on the land, and procuring the affidavits from the entrymen; but at the same time, there ought to be a little work done at Washington to help the thing along. And so he would give me letters to a prominent attorney there, and also he requested that I would call on Eddy and Nelson there, State senator, and that he would write him a personal letter to see me, and that I would explain the situation thoroughly to him, and act accordingly. So I started to Washington, but it seems that there was something else had to be done, or some other proceedings that Mr. Kribs had wired Smith in the meantime, and when I arrived at Washington, I received a wire or two from Smith not to see Eddy and Nelson, or do anything; that he had heard from Oregon, and to wait, or something to that effect. So we talked the matter over frequently after that all along until patent was issued.

Q. Well, now, in that matter of advice that you

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were giving to Mr. Smith there, prior to the time you took the letter to Mr. Belt, did you go into detail with him as to the character of the claims, and what showing would be necessary to overcome their weakness, if any? [685—722]

A. Well, I must have went into that pretty thoroughly; told him what was necessary to be done, and what we had done in the way of procuring affidavits, and what the special agents had reported, and the affidavit I had made myself; but still we needed more work, etc., and any thing that he could do or suggest—I thought he had a good deal of influence through some of his State Senators that was in Washington; and I suggested that to him. So he thought it a good plan.

Q. Do you have any knowledge yourself of the employment of Mr. Pierce Mays by Mr. Kribs in relation to those claims? A. Oh, yes; yes.

Q. What is your knowledge of that?

A. Well, it seems that after Kribs had got a title to the land there was an investigation ordered, and of course he come to me about it—I ought to stay with him on this thing and help him out. So I did—done what I could. And I suggested that he would see Pierce Mays, that I thought he had a pretty good pull at Washington with the senators there, and he better employ him. And he did, and agreed to give him \$50. a claim.

Q. Did Mr. Kribs tell you that too?

A. Yes.

Q. That he did employ him?

A. Yes. Mays took the case at \$50 an entry, for

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to see them through to patent.

Q. And do you have any personal knowledge of the employment of the firm of Mitchell & Tanner in connection with that?

A. Yes. It seems that Mays was getting along and wasn't doing anything. Kribs complained to me that he had agreed to pay him \$50 a claim, and he wasn't doing anything; [686—723] the thing was dragging along, and Smith was getting anxious. So I suggested then that he get acquainted with Senator Mitchell—insisted on it that he would—and see what he could do. So I learned afterwards that he did solicit the Senator, and through him the patents was procured.

Q. What connection, if any, did you have with the relationship existing between Kribs and Stratford in taking the affidavits upon the claims?

A. Well, the first time I met Stratford, was in the McClellan House, I think it was. Mr. Kribs introduced me to him. I had very little to say. And some time after that Stratford come to me with an affidavit for me to sign. It was at the time that we were procuring the affidavits from all the entrymen, and this was one covering the entire tract—what knowledge I had of it. And that is the only time I ever met Stratford.

Q. Well, did you prepare that affidavit?

A. No, sir.

Q. Who did?

A. Well, I don't know. Stratford handed it to me, and told me to read it over, and if I didn't think that was about the facts. And I said most assuredly

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it was; I couldn't write it up any better myself; but at the same time I objected to signing it at the time—that I would like to have the privilege of dictating it at least; but it was all right anyway—I couldn't do any better—so I signed it.

Q. What was the fact as to that affidavit stating the truth or the reverse?

Mr. LIND.—That I object to. If counsel wants to [687—724] cross-examine that affidavit, it should be done in an orderly way. Let the portions that counsel assails be read in the record.

Mr. McCOURT.—Well, I don't care anything about it now, except I think I am entitled to an answer as to whether it was designed to represent the truth.

COURT.—I suppose he can testify to that, but not to the general details of the affidavit without you produce it here.

A. What do you want me to testify?

Q. I want to know whether or not that affidavit that you made there was designed to represent the truth.

A. Well, in a few instances it was; in a great many it was not. It was quite a lengthy affidavit.

Q. Did Mr. Kribs make any statement to you as to, pending the time when this investigation was going on, as to the transactions he had had with Stratford, or was having with him?

A. No, I don't think Kribs had ever talked about Stratford much. He mentioned to me to round up those people and get them before Stratford; but I didn't have the time. I had to get McKinley or Tar-

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pley to do it. I was going away. And he said he was here, and he was rushed to get those affidavits as fast as he could, and Stratford was on the ground, and willing to go to Brownsville, or anywhere else where he could find them, and he wanted me to help him out.

Q. Well, you talked with McKinley about it?

A. Yes.

Q. And what instructions, if any, or what did you and McKinley determine on as to the material to be in those [688—725] affidavits?

A. What is that?

Q. What arrangements did you make with McKinley or with Kribs as to what should be the substance of the affidavits?

A. Well, McKinley felt just exactly as I did—that we ought to do just as much as we could to help the matter out and round those fellows up, and get their affidavits, and talk to them, and insist that they would make certain affidavits showing that everything was straight, etc. And he was morally bound to do that anyhow.

Q. Now, as to the payments to Mays and to Mitchell & Tanner, to the different entrymen, if there were any, or to special agents, was that expense stood by you and McKinley, or who did stand it? Who paid it?

A. Well, we didn't stand it. We didn't pay it.

Q. Do you know whether Mr. Smith knew anything about those payments?

A. Well, Mr. Smith knew about the amounts, etc., because he had—

Q. How do you know that?

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A. Well, some time when I was closing the Humboldt account deal with him—I think that was in 1904, just right after the 11-7 trial, and during the time that these 33 entrymen was being examined here for the purpose of taking them before the Grand Jury, at that time—no, I am mistaken—just take that out—it was just about 10 days or two weeks before the patents issued, Mr. Kribs had informed me that he had a telegram from Washington to the effect that the 33 entries was passed to patent; that meant that they would be written up in a few days. And it looked as if Smith was going to hold me up on a lot of money [689—726] that was due me in Humboldt County on a redwood deal, because I had fell down on the transaction by 2,000 or 3,000 acres,—there was some 33,000 acres, and I only delivered 30,000—and that it would be a good time now for to go back and force Smith to pay me this money. So I concluded to go back. And when I called Mr. Kribs up and told him what I was going to do, that unless Smith paid me that money forthwith, I was going right straight to Washington, and go to Hitchcock and repudiate the affidavit that I had made, and request Mays at Washington City to go right on and see Mr. Hermann and hold the patents up until I would settle with Smith; and if Smith made the settlement with me, that I would wire him, and let the claims go to patent. I called on Smith, and after wrangling about two days with his private secretary, Charley Trabert, and going over the Humboldt County account, we concluded that there was the sum of \$10,645 due me, which is the amount I claimed. And it was

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at that time that Smith handed—shoved, an account against the Oregon entries amounting to some \$4,000 or \$5,000, that he wanted deducted out of that claim. All I was getting at this time was the actual cost to me, which I had paid out on the lands, forfeiting all my commissions.

Q. That is on the Humboldt deal?

A. Yes. And glancing over the item, I seen a certain sum to Senator Mitchell, a certain sum to Pierce Mays, to Stratford, Loomis, some other payments—I don't know what—but to the amount of \$4,000 or \$5,000; and I just bucked right there, and says, "No, sir, nothing of the kind. The whole thing is off. I won't pay a cent of it." And so Smith passed it up, and he gave me a due bill of \$10,645. Now, that is the [690—727] first knowledge that I had that Smith of course knew of those payments. That was about three weeks—probably that was on the 24th day of April that I received that due bill, and I am positive that three or four or five days before that time—it was two or three—about four days that Mr. Kribs informed me that he had heard from Washington.

Q. Well, how does the date of the due bill accord with the date that Smith showed you this list of expenses of payments made he wanted to show you?

A. That was the same date.

Q. That was the 24th of April, 1902?

A. The 24th day of April, 1902.

Q. What did you do when he signed up the due bill without exacting the payment of those other moneys, as to the patents, as to Mays?

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A. Well, he seen in a minute that I wasn't going to stand for that at all. It was simply, a bluff, I believe, on his part in the first place, thinking that I might; but I cut it all out, and he handed me the due bill, and I accepted.

Q. Now, then, on the date that proof was made back there, Mr. Puter, in 1900, the proofs made in April, there were quite a large number of the entrymen—something like fifteen or twenty, who were paid something like \$100 a piece. Where did you get that money with which to pay those entrymen?

A. Well, I paid a few of them, as far as my own money went, and the rest of it come from Kribs.

Q. Do you recall now how much Kribs advanced for that purpose at that time?

A. When I sent for Kribs I think he come to Albany, and [691—728] I had in my pocket the deeds then to the entire tract. That is, some 23 names, I think, or 24, that was proof made on.

Q. Yes, but I am speaking of the money that you paid those entrymen the day of proof there.

A. The time they made proof?

A. Yes. When you paid them \$100 apiece there in Roseburg, how much of that money did Mr. Kribs advance to you?

A. Oh, I think at Roseburg there was not very much money paid. There was a few paid, and I believe that was my own money. When I paid those men, was in fact about a week afterwards—most of them.

Q. Well, but you took the deeds right there in Roseburg. You didn't get away without?

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A. Oh, well, there was some that I did not pay until a little while afterwards. They had my word for that, and some I paid right down.

Q. Which ones took your word for it now?

A. That I could not tell. In fact, I could not tell who I paid. And all I recollect is that I know that we were short of money, and I would say to them, "I want a deed. Pay you to-morrow or next day; going to transfer the property over." And then at the same time I had probably ten or fifteen of the deeds in my pocket. I don't know whether there was that many, but I had a number of deeds the very day that the mortgage was made. But I didn't pay them all that day. I paid them afterwards.

Q. What function did that mortgage have there when you took a deed at the same time? What was the purpose of that mortgage? [692—729]

A. Well, that was the purpose of that mortgage was McKinley and I when we first went into the scheme was that that would be a good plan in order to throw anyone off the track.

Q. As to the real character of the transaction?

A. Yes; to take a mortgage on the land.

Q. What did Mr. John A. Willd have to do with the transaction at that time or any other time?

A. Well, really I don't know. All I know is when I spoke to Mr. Kribs who would I get that—I was going to get those deeds, you know—he requested me to have them made over to John A. Willd.

Q. Did he tell you who John A. Willd was?

A. Yes, I believe he did. He said he was a stockholder or some distant relative of C. A. Smith.

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Q. Well, now, how long was it before the proof, Mr. Puter, that you arranged with Kribs that he should take the land?

A. Well, I will tell you—there was nothing definite about that. It seems to be an understanding. I believe Kribs knew that he was to get this land, but there was no direct conversation about it. I said to Mr. Kribs that “I will be able to deliver—I think I can get those claims at a certain figure.” He didn’t say anything, yes or no. But I understood from his actions that he was willing to take it. He didn’t say no nor yes.

Q. Well, you knew he was willing to take it?

A. We went on the theory—

Q. Before the first proofs were made?

A. What is that?

Q. You knew that he was willing to take the land before the first proofs were made?

A. Well, I surmised that in my own mind. I thought he was. [693—730] I didn’t think that it was exactly for the interest that there was in \$600 when he agreed to advance \$600 on a mortgage; that it was pretty sure that he would take this land, although we did not have a definite understanding all together.

Q. You did not. Well, what did you take a deed on the same day you took a mortgage if you did not have a definite understanding?

A. Well, that was between the entrymen, and we wanted to be—

Q. Yes, I know. But supposing Kribs had just kept that deed and not paid you any more money at

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all, didn't he have a deed?

A. Why, no, I had the deed, and he never got possession of it till I got the money.

Q. You kept the deed in your pocket?

A. Yes, sir.

Q. You didn't deliver it to him? A. No.

Q. You didn't know he was going to take the land?

A. I kind of suspected he would. I had a pretty good idea he was going to take it, although he didn't say so.

Q. Hadn't you agreed upon the price that he would take it at?

A. I told him that I could deliver those goods at a certain figure.

Q. How much?

A. Well, I think it was, when we got into the law suit, Kribs was going—in the first place, he was going to advance \$6.00 an acre. I says like this, says I, "I will take \$6.00 an acre for the lands. I think we can procure title for \$6.00 an acre."

Q. That is the law suit of the Northern Pacific you are [694—731] talking about?

A. Well, this was before. I says, "I will have to have a loan of \$600 a claim." Now, he didn't say he would take it or not. But when the lawsuit commenced with the Northern Pacific, Kribs backed out, didn't want to go into it, and I come down then to \$5.50 an acre and then in order to get us out of the hole, he said he would stand by us and help us out in the matter. And it is then was when I told him I thought I could deliver those claims, get a

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title to those claims for that price. He didn't say anything. So I went right on and got the title just the same.

Q. Where did you get the money with which you paid the Northern Pacific entrymen that relinquished?

A. Well, now, I might have borrowed that from Kribs, or may have put it up. I don't know. I paid \$25 apiece to 24 men. That would be—

Q. \$1,200.

A. How much? Yes, \$1,200. No, \$400.

Q. \$600, yes. A. Yes, \$600.

Q. Did you get those relinquishments yourself, or how were they gotten? Who got them?

A. I think I got most of them. I know I had a pretty hard time, because when the case was settled, they all wanted to get their \$100 and I had to take such ones as I could get a relinquishment out of the fifty-seven.

Q. Now, when you first went to talk to McKinley about this transaction up there at Albany, do you remember W. R. Mealey being there? [695—732]

A. No, I do not.

Q. You got in late at night at the hotel, and Mealey was there. Mealey was the man, wasn't he, who put you people onto these lands?

A. Yes. When McKinley told me first about the land, and what Mealey knew, I sent for Mealey, and he came to Albany and met me there. I entered into a contract with Mealey to give him \$10 each for what claims that he would give me, that would cut a certain amount per acre. I think he got—he fur-

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nished, oh, probably thirty odd.

Q. And what was the amount per acre?

A. It was \$10 a quarter section.

Q. Oh, \$10 a quarter section—\$40 a quarter?

A. No, ten. Yes, \$40 a quarter section.

Q. Or I mean a section.

A. Yes, a section. \$10 an entry.

Q. And after you had employed him to locate those quarter sections, what other services did you require of Mr. Mealey in connection with this whole matter?

A. Well, I believe I paid him \$100 to cut a trail through the timber.

Q. What was the purpose of that trail?

A. Well, that trail was cut—we didn't know exactly who would come out there, but expected to be some fellow, you know, some old man that could not go through the woods, that would have to go horseback, and we had that trail cut for the party to come through to look at the lands to see that the value was there before they would loan the money. That was the original understanding why we had the trail cut.

Q. In those mortgages with Mr. Kribs there, he never gave you any \$600 for each entry—he never put you up that [696—733] much cash?

A. Well, now, that is pretty hard for me to remember. It required \$430 to the Land Office—at least about \$411. Then there was advertising, and he may have given me the money there that time for to pay those 24 claims. I don't recollect.

Q. Now, I notice, Mr. Puter, that your bank ac-

(Testimony of S. A. D. Puter.)

count at Roseburg which you opened on the 19th of May, 1900, shows a deposit of \$4,000 on that day, that being the date of the first proofs?

A. That was the date of the first proof?

Q. Yes. A. I thought it was in April.

Q. Yes, April 19th.

A. You say May there?

Q. No, April 19, 1900, you deposited \$4,000 in the Roseburg bank—First National Bank.

A. Yes.

Q. Where did you get that \$4,000, do you remember? Did you have any \$4,000 of your own at that time?

A. No, I don't think I had. I might have had part of it, but that money was deposited there by me for the purpose of paying off those entrymen at \$100 apiece, and for the 24 men. Now, I may have borrowed, I may have got that money from Fred. I must have got it from him, for I didn't have that amount.

Q. And on that same day you drew out \$840 of it as shown by the records of the bank?

A. \$840?

Q. Yes. And on the next day, the 20th, you drew out about \$3,000—\$2,700. There is a memorandum of it. A. The next day? [697—734]

Q. Yes.

A. Now, the best of my recollection on that transaction was that Fred Kribs advanced me most of that money. In fact, he advanced all of the money, that is, the \$600 of the entry. This must have been the difference between what went to the

(Testimony of S. A. D. Puter.)

Land Office and the \$600, I am inclined to think, or something like that.

Q. You didn't handle any of the money that went to the Land Office?

A. No. I don't know who paid that—haven't the least—I have an idea who paid it, but I never seen it paid.

Q. You knew that was paid?

A. I knew it was paid.

Q. Mr. Kribs assured you that he would pay it?

A. Well, he was to pay the \$600 on the mortgage, and the Land Office fee was to come out of that \$600.

Q. Now, I want to call your attention to a telegram which is marked "Government's Exhibit 183" from yourself to Smith dated January 19, 1901, and tell the Court what it refers to.

A. This is 1901. "Washington, D. C., January 19, 1901. C. A. Smith. Fred wires sworn statements sent Stratford follows in few days. Haven't spoken to anyone here. Leave for Chicago tomorrow. S. A. D. Puter."

Q. I show you the original here.

A. Well, that is the same thing.

Q. What does it refer to?

A. Well, that was at the time that, just a few days before that time is when I had seen Smith in Minneapolis, and we had talked the matter over about calling on those Senators. And I went on to Washington. Fred sent me a wire in regard to the affidavits that was made by Stratford [698—735] and others that they had been forwarded to Washington. And I simply notified Smith of that—sent

(Testimony of S. A. D. Puter.)

him a wire. I don't know—

Q. What statements did it refer to?

A. Well, you see there was a lot of those people that we didn't get statements from until some time afterwards, and it referred to those. I think Stratford had made a second trip, and had procured those that we didn't have.

Q. Those were the affidavits relating to these claims in controversy? A. Yes, certainly.

Q. Which the entrymen made? A. Yes.

Q. Like the affidavit that you made, that you speak of? A. Yes.

Q. Now, in your first conversation with Mr. Smith, when he introduced you to Mr. Kribs, gave you a letter of introduction to Mr. Kribs, what statement did he make as to Mr. Kribs' connection with him, or his authority for him?

A. He told me Mr. Kribs was—whatever Mr. Kribs said or done he would stand by; that he was out there looking after lands for him, and that he was his land agent; whatever trade that I made with him, it was the same as making it with Smith.

Q. And how long did Mr. Kribs continue in that capacity, to your knowledge?

A. Well, I supposed he had up to the present time as far as I know.

Q. How long did you continue to transact business with him as the agent of Mr. Smith after that time?

Mr. LIND.—That is leading and objected to

Mr. UELAND.—And it calls for a conclusion as to the capacity. [699—736]

(Testimony of S. A. D. Puter.)

COURT.—Yes, he can testify to what transactions he had with Mr. Kribs, assuming him to represent Smith.

A. Well, that is about the only transaction that I had, I think, that 14-3, 2, 3 and 4.

Q. Well, now, did the relation between them change any up to the time the patents were issued?

Mr. UELAND.—That calls for a conclusion, too, I think, if the Court please.

COURT.—As far as he knows. As far as the witness knows. He says his understanding was it continued down to the present time.

A. Well, I had business with Mr. Kribs a good many times after that. I done business with Smith, or with Kribs that Smith hadn't anything to do with, although he was dealing with Smith. He had other men, you know, he was buying timber for.

Q. Besides Smith, that he was representing?

A. Yes.

Q. But in connection with these lands down until the time that they went to patent, who represented Mr. Smith here in Oregon relative to those lands?

A. Mr. Kribs.

Mr. LIND.—That calls for a conclusion. He has testified as to what he knew. What Smith said to him, what Kribs did.

Q. Well, when you were there at the time that that statement was made in April, 1902, did Smith have any conversation there at that time relative to the agency or representation of him by Mr. Kribs here in Oregon?

A. No, there wasn't anything said. It seems

(Testimony of S. A. D. Puter.)

from the year before that we modified our original contract in the Humboldt County lands, that I had forfeited all commission, [700—737] and all I was to get was the actual cost to me of those lands, and that was due and payable when the title was perfected, and to the other lands in Oregon. And that was very indefinite, the amount due me, and at this time, just before the patents issued, I went to find out exactly what was coming to me, and get it, and that is when I went after Smith pretty hard and let him know that I was going to Washington, and what I was going to do. That is when he gave me this due-bill, and we figured out the exact amount I had been out on those lands. And that is when he run in this other account.

Q. What I was asking you is whether Kribs was still representing Smith at that time?

A. Well, I supposed he was. I didn't know, but I supposed he was, and up to the present time.

Q. Did you have any conversation with him relative to those lands immediately before you started to Washnigton, or started to Minneapolis?

A. Yes, sir.

Q. At that time?

A. Mr. Kribs had informed me that Smith—I had ought to get my money out of him; that the thing was dragging along; unless I got it before those patents were issued, I wouldn't get it at all.

Q. I call your attention to "Government's Exhibits 182, 181, 180, 179," which are original letters to you delivered to the Government by the defendant, and ask you whether or not there were any other

(Testimony of S. A. D. Puter.)

letters delivered by you to Mr. Smith at the same time you delivered those to him.

A. Yes, I believe there were a few other letters in relation to these lands. [701—738]

Q. In relation to these lands? A. Yes.

Q. What were the circumstances of the delivery of those letters to Mr. Smith?

A. What is that?

Q. I say, why were they delivered to Mr. Smith, or what was the circumstances under which they were delivered to Mr. Smith?

A. Why those letters was delivered to Smith?

Q. Yes, those that you have in your hand, together with the others.

A. Oh, why, I wrote them, you mean, to him?

Q. No. A. Delivered them?

Q. He wrote them to you. You gave them to him. What were the circumstances under which you did give them to him?

A. Oh, I understand. Well, that was during the 11-7 trial, right afterwards, when I informed Mr. Heney about this fraud, and he had subpoenaed all those parties down here for to make affidavits, go before the Grand Jury in order to indict Mr. Smith and Kribs, I see it was a good opportunity at that time to get this money, because I had already commenced suit on Smith on the \$10,645. This was a year or two years after I had received the due-bill. He refused to pay me the money, because there was one of the claims not patented. That is the Houser claim. So it looked to me at that time it was a good time to have Mr. Smith indicted, and I told Mr.

(Testimony of S. A. D. Puter.)

Kribs that I had this old sore; I wanted it fixed up; unless Mr. Smith paid me this \$10,645 I was going to endeavor to have him indicted. And Mr. Kribs told me he would write him the full particulars. And he wired the money inside of four days. He settled the matter up. At the same time he requested—Mr. Kribs [702—739] or Smith, I don't know which—that I would give up all correspondence that I had. And I handed those letters over.

Q. And took your money?

A. What is that?

Q. And took your money? A. Yes, sir.

Mr. McCOURT.—Will counsel let me have the other correspondence that was delivered at that time?

Mr. UELAND.—We will, if we have it. (Hands counsel letter.) You just want the original letters?

Mr. McCOURT.—Yes.

COURT.—I would suggest that you get through with the oral examination of this witness.

Mr. UELAND.—I want to state, if the Court please, that I here hand the District Attorney all original correspondence that I have, and this that I lay aside here, consisting entirely of letters, is copies of C. A. Smith Lumber Company's communications to Puter, but not original correspondence.

Q. Do you recall the Josephine Jacobs claim, and the taking of her affidavit by Mr. Stratford or Mr. Loomis? A. Yes, sir.

Q. What were the circumstances of that?

A. Well, that was just exactly the same as all the

(Testimony of S. A. D. Puter.)

rest of them. The object was to get each one of the entrymen to make an affidavit that they had taken the land up in good faith, and had not made any trade or transaction to anybody whomsoever, etc.

Q. And do you know, or do you have any personal knowledge of the taking of that affidavit, by Mr. Loomis, by Mr. Stratford, or whichever one took it?

A. Well, I did not until after it was taken. I had heard. [703—740]

Q. Well, now, when did you hear that, and who from? A. What?

Mr. LIND.—That is objected to.

Q. When did you hear what you were about to state and whom from?

A. I think it was Mr. Loomis told me that he had called on—

COURT.—Loomis testified about that. It would not be binding on these people.

Q. Did you see Mrs. Jacobs in relation to giving the affidavit? A. Yes.

Q. Advised with her about giving it?

A. No, she had given it before I had seen it.

Q. Now, then, when you and Mr. McKinley formulated the idea of taking these lands up, was your purpose to earn a location fee or to earn a commission on the sale of the land, or a profit on the sale of the land?

A. Oh, the understanding between McKinley and I was to get some one to put up this money, and we was to pay the entrymen \$100 apiece and what-

(Testimony of S. A. D. Puter.)

ever we could make over and above the cost, we should divide between us, and we calculated to sell it between \$600 and \$700 per acre.

Q. Now, in relation to your own claim, when you divided afterwards, was that—

A. That went in just the same as the rest—no difference.

Q. The same as the rest. And how about your wife's claim? A. The same.

Q. And Mr. and Mrs. Jacobs,—no, Mrs. Jacobs and her daughter? A. All the same.

Q. All the same. The entryman Ira Pilkington—was he one? A. Yes.

Q. Of the parties you selected? [704—741]

A. Well, I don't know whether I had procured him or not. I hardly think so. I think McKinley got him.

Q. Now, in your division, did you get \$100 over and above—was there \$100 taken out, and half the profits divided, or how did you get yours, or was it just divided on the profit in your case?

A. Well, I kept an account. I paid about all the money to Mealey's, and for making trails, and railroad fare, and filing and advertising—filing fee and advertising; and when I delivered the deeds to Fred. I received a lump sum, so much per acre, and after deducting out the costs, I think I divided with McKinley. Whatever that was, I don't recollect now.

Q. Now, in these exhibits, these C. A. Smith letters that I have called your attention to, one or two

(Testimony of S. A. D. Puter.)

of them where "Fred"—a person by the name of Fred is mentioned, to whom does that refer?

A. Mr. Kribs.

Q. What arrangement did you make about the payment of the fare of those parties to Roseburg at the two different trips that they made there?

Mr. UELAND.—Well, there is no evidence—you mean between McKinley and the witness? There is no evidence that he had any communication with any of them.

Mr. McCOURT.—I am referring to the arrangement that he made with the railroad company about the fares.

A. Well, there was one batch, I believe—the railroad company, where there were ten or more people traveling at one time, they would give you a rebate, or a reduced rate, I believe one and one-third fare.

Q. Was that the rate that you had in taking those parties [705—742] up there?

A. Yes. I made that rate to the railroad company for one or two bunches of them.

Q. Now, do you know Finlay Morrison?

A. Yes, sir.

Q. And you know D. W. Tarpley. What has been the business of Mr. Tarpley and Mr. McKinley since 1904?

A. You say what?

Q. What has been the business of Mr. Tarpley and Mr. McKinley since 1904?

A. Well, of course, I can't tell everything they have been into.

Q. Well, have they been in the timber business

(Testimony of S. A. D. Puter.)

yet? A. Yes.

Q. And since that time you have still been in the timber business? A. Yes, sir.

Q. And are yet. Now, this case, Mr. Puter, you have written quite an extended chapter relative to this case in that book of yours called "Looters of the Public Domain," have you not?

A. Yes, sir.

Q. And at the time you wrote that, was the matter fresher in your mind than it is now?

A. Well, no. I didn't have the—I wasn't in position exactly to get dates and everything as well as I am now.

Q. What operation have you recently had?

A. I have had an abscess in my left ear, and it has been operated upon about seven times.

Q. Has that affected your memory in any regard? A. Well, no.

Q. What? [706—743]

A. It—only in hearing—the minute when I speak the bubbling, it is rather difficult for me, that is all. But I have had an opportunity to refresh my memory in the last year with a good deal of those transactions—the last two years.

Q. There is some correspondence in here. Have you been furnished with a copy of that correspondence that is put in the record here, between you and Mr. McKinley during the time these transactions were being conducted?

A. Yes, sir. I believe you handed it to me, yes.

Q. Now, I would like to get it a little more defi-

(Testimony of S. A. D. Puter.)

nite, Mr. Puter, about your talks with Mr. Smith when you first presented this matter to him in Minneapolis in February, 1900.

Mr. UELAND.—We object to the question because it contains a statement to which this witness did not testify.

Mr. McCOURT.—That was merely preliminary. I have not asked the question.

Mr. UELAND.—The question implies facts not stated by the witness as to the time.

Mr. McCOURT.—Oh.

Q. Well, February or March, whichever it was, 1900. Now, you just tell the Court your first meeting with Mr. Smith and the presentation to him of this proposition of this land up in Linn County.

A. I thought I answered it.

Q. Well, you didn't answer it as widely as I wanted you to. I want you to tell the Court all about what you and Smith said and what you did.

A. Well, right after the first batch of these entries was filed on, as I stated, I went East, and I don't know whether I had seen Smith first before I seen anybody else or not. It seems to me I had seen some parties at Duluth first, [707—744] as I had went straight through.

Q. We don't care whether you saw him first or last. Tell us what you and Smith said when you met each other and talked this matter over.

A. I seen Mr. Smith, and said that we had fell down on the Coos County lands; that I had another proposition that I thought was a good deal better—

(Testimony of S. A. D. Puter.)

more money, worth more; that I had eight or ten thousand acres I expected to get title to, that I could deliver to him for about \$7.00 an acre, and wanted to know if he wouldn't take it. And he questioned me where it was located, and how much timber was on it. I told him it was Linn and Lane County, and I thought I could guarantee 75,000 feet per acre. Well, he said he would like to take it. And he says, "You see Fred, and whatever arrangements you can make with him, you can bank on my carrying it out." That was the sum and substance of the conversation.

Q. Now, had you met Fred before that?

A. Oh, yes.

Q. You mean Fred Kribs? A. Yes.

Q. How long before that had you met Fred, and how well acquainted with him had you become?

A. Well, not very. That was when I drew up a contract with Mr. Bohn and Smith and myself, where I was to sell Smith 60 quarter sections in Coos County, and he gave me a letter of introduction to Fred Kribs, who was at that time in San Francisco, and I went direct there to see him.

Q. How long was that before the transaction relative to the Linn County lands?

A. Well, that I cannot say. It was in either November or December in 1899, or in January or February, 1900. [708—745]

Q. All right. And did you go West and see Kribs, or was Kribs in Minneapolis then?

A. Went direct to Frisco to meet him; talked

(Testimony of S. A. D. Puter.)

with him for three days on the matter.

Q. All right. Now, then, let us go back to this Linn County deal again. Now then, how long was it after you talked to Smith that you went out and saw Smith relative to lands in Linn County?

Mr. UELAND.—Counsel unintentionally, I think, confuses there. As I understand the witness, he had had no talk with Smith about the Linn County lands before the Coos County deal fell through.

Mr. McCOURT.—No, that is right. But he did go out to see Kribs immediately after he talked to Smith about the Linn County deal. A. No.

Mr. UELAND.—No, Coos County.

Mr. McCOURT.—He went again—went to see him again. I will just ask that question.

Q. After you had talked with Smith about the Linn County lands, as you have already stated—

A. Yes.

Q. How long was it after that till you saw Kribs in California?

A. Oh, probably 25 or 30 days. I had went to Michigan and all around for a while.

Q. Now then, where did you meet Kribs?

A. That I cannot say, whether it was in Frisco or in Sacramento or in Oakland. Kribs had been on the road, up and down—I looked him up and found him; I don't recollect where, but I had found him somewhere.

Q. You recall having a conversation with him about these [709—746] lands? A. Yes.

Q. Now, what did you say to Mr. Kribs?

(Testimony of S. A. D. Puter.)

A. I told Mr. Kribs that I had some eight or nine thousand acres up in Oregon, Linn County, that I expected to get title to, that I could deliver at a certain figure, and I would like to have him look into the matter; that I needed some money to furnish the entrymen to prove up on. He wanted to know how much it would take. I told him it would take \$600 on the quarter, cash down. And he said he would come up and look at it. So he came up, or he was already here—I don't know which; and he looked over the land.

Q. Just a little bit now. Did you tell him then what you would sell it to him for?

A. I told him that I procured titles to those lands—I expected to, for in the neighborhood of, I think it was \$6.00 or \$6.50 an acre. So he didn't say anything but he would look at them. So a little while afterwards he had looked at the lands, and he told me they were good—good timber and he says, "I will let you have the money on those lands."

Q. Then at that time when he talked to you that he would let you have the money on them, did you set the price at which he could secure the title to them?

A. Well, I wanted \$600 on the claim, but as I said, I didn't enter into any definite understanding that he was to take them, but that I could procure the title for those lands. He didn't say at the time that he would take them or not. But I conveyed that idea to him, and I think that he understood me well enough without going into the details. That is

(Testimony of S. A. D. Puter.)

my impression of it. [710—747]

Q. What was your reluctance about telling him that you would secure, or entering into a definite understanding with him?

A. Well, I was not exactly sufficiently acquainted, in fact, with him for to go into the details with a stranger, that I hadn't only met two or three times, in regard to how McKinley and I was procuring title. I had to feel him out, in a way, the best I could. And I thought by his actions that he agreed to put up this money with the expectations of getting the land at my price. But when we come to have the lawsuit with the Northern Pacific, he backed out. And I went after him again, and persuaded him to come in and help us out, which he did.

Q. Where was he when this trouble with the Northern Pacific was going on?

A. Well, he was either in California or Oregon—I can't say. I have heard that he was in Albany—heard of it today for the first time. I have forgotten where he was—didn't know.

Q. Do you recall the incident of the contest in Roseburg?

A. Oh, yes.

Q. Well, do you recall Mr. Kribs being present there at the hearing, or about the hotel there, when it was going on?

A. Certainly he was there. The day we was putting in the proof. He went there—that is, a little while before I had requested him to have the money, that I thought there would not be any contest, that the proofs would be in and we would want to have

(Testimony of S. A. D. Puter.)

the money. So he was there, or he was there the next day or two afterwards, I think. I don't think he was there on the day of the contest,—maybe for about three days afterwards.

Q. How many days was it after proof was made until you turned over these deeds to Kribs—these Willd deeds? [711—748]

A. Oh, it was within the week—I think within the week.

Q. Did you receive any payment of money at the time you delivered the deeds to him?

A. Oh, yes. We settled up all except one thousand dollars that he retained.

Q. As to the claims that had already gone to proof?

A. Yes, some twenty odd claims.

Q. Do you remember the amount of money that Mr. Kribs paid you there at the time you delivered him the first batch of deeds and mortgages?

A. Well, he paid me at the rate of \$5.50 an acre for the number of acres that was put through—I think twenty odd entries—twenty-one or two or three—after deducting out the amount that he paid to the Land Office, which was probably \$411 or \$412 a quarter.

Q. Do you recall that you received a check from him for 7900 and some dollars?

A. Yes, it was 7,000 and some odd dollars.

Q. That time? A. Yes, sir.

Q. Well, now, what occurred as to the second batch of claims between you and Mr. Kribs?

A. Well, that my mind is—I have tried my best

(Testimony of S. A. D. Puter.)

to think of it. I know the proof was put in, and those deeds was procured exactly in the same way. I don't know how soon, or how it was, but I am pretty sure that he paid me for the others. I don't know exactly where it was; I have forgotten where it was—whether it was here in Portland, whether it was ten days or two weeks afterwards, or how. As soon as the proof was made on these other claims—I had money then—we had money out of the \$7,000 to conduct [712—749] that ourselves, so far as paying those entrymen, procuring the deeds; and they were handed over, and he paid the difference.

Q. How long was it after you had received this money from Kribs that you and McKinley effected a settlement?

A. Well, that I cannot tell. It might have been at that time. There was always an account between us. Sometimes Mac would owe me a couple of thousand dollars, and sometimes I would owe him.

Q. Now, did you deliver those mortgages to Kribs at the same time you delivered him the deeds?

A. Oh, no, they were delivered on the day of proof.

Q. They were delivered on the day of proof. Now, after you had made this proof, what were your relations with Kribs? How often did you see him in relation to the matter from time to time?

A. Well, I didn't have anything more to do with Mr. Kribs, only I might meet him once in a month or two months, until—well, even when the Govern-

(Testimony of S. A. D. Puter.)

ment was investigating the titles.

Q. Where did you go to sign your Stratford affidavit that you mentioned?

A. I think that was here at the Perkins Hotel; somewheres in town; I don't recollect where.

Q. Who was there besides Mr. Stratford himself?

A. Well, really I don't know that. I don't think there was anyone.

Q. Had you had a talk with Mr. Kribs about it before you went there to sign it?

A. Yes. Kribs, he stated that it would be necessary for us to make affidavits—McKinley, myself and all of the entrymen.

Q. Well, did Kribs state that, or did you and Kribs and [713—750] McKinley formulate that plan among yourselves?

A. Well, no, it was, it seems—it was Stratford that started that. He came out here, and it is customary for a Special Agent to get affidavits from the different entrymen. And he had spoken to Kribs, and Kribs to him about it; and Kribs come to me and wanted me to help him out in this matter—round up those people, that Stratford was here, and get the affidavits from them. So of course, we done what we could. McKinley attended to most of that, because I went away East. I don't think that I, in fact, spoke to anyone, that I can recollect now. I think myself and my—I don't think my wife made an affidavit, as far as that is concerned. She was not here.

Q. You made one for her? A. Yes, sir.

Q. You included her claim in your affidavit?

(Testimony of S. A. D. Puter.)

A. Yes, I concluded the 33 claims in mine. That is the one that was made.

Q. The money that was paid for your wife's claim, did you pay that or did Mr. Kribs advance that too?

A. No, the proof was put in, and who paid the money to the Land Office I don't know, but I presume it was Kribs. Because the way we done those, we didn't want to give the money to the entrymen; it didn't matter; anyone could go in and pay it to the Register and Receiver. And as Kribs has taken the mortgage on the claims, I presume that he gave a check on the bank there to the Land Office, probably for the twenty odd claims at one time. He may have done that. Or he may have paid each one separate—I don't know. I presume he would do that, because it was customary—I have done that myself. I have put in proof where I would come in sometimes two or three days afterwards, and [714—751] pay for the proof for three or four claims at a time.

Q. Well, now when, for instance, Charlie Barr made proof—do you remember Charlie making proof?

A. I just recollect the name. That is all.

Q. Well, we will catch one of these fellows that you know. For instance Mr. Green made proof. You know John L. Green, don't you?

A. Yes.

Q. For instance, when John made proof, now, did Kribs turn over \$600 to you?

A. No.

Q. Did he turn \$600 over to Green?

A. No.

(Testimony of S. A. D. Puter.)

Q. Did he pay \$600 to anybody?

A. Well, it seems that a day or two before the proof, to the best of my recollection, the money was there for to pay for that purpose at the rate of \$600 an entry, or more, and as the proof was put in, there was a certain amount of money to go to the Land Office, that was to come from Kribs, and there was a certain amount to go to these entrymen. I wanted that, and I am pretty sure that Fred had given me a check for three or four thousand dollars, maybe two thousand dollars—I had some money of my own; and as soon as proof was put in, I paid those parties, some of them, right there, got their deeds—and others I paid three or four or five days afterwards. But when I made the settlement with Fred for the balance I went to him and said “I have got the deeds now to those 20 claims. Do you want to take them?” He says, “All right.” And that is when we figured up, he kept the book account, what he paid me, and what he paid the Land Office, and give me a check for the difference, which was seven odd thousand dollars. [715—752]

Q. Well, the \$600 didn't have anything to do with that calculation, did it?

A. I don't understand.

Q. When you made your dicker with Kribs, Kribs had put up so much money for proofs, hadn't he?

A. Yes.

Q. And he had given you a certain amount of money to pay entrymen at the rate of \$100 or \$75 apiece, hadn't he?

A. Well, he didn't know what I was paying—

(Testimony of S. A. D. Puter.)

never did know what I was paying the entrymen.

Q. Well, whatever you were paying them, he had given you so much money, hadn't he?

A. Yes, sir.

Q. It didn't represent \$600 a claim, or \$500 a claim, or any particular sum?

A. Yes, I am inclined to think that he gave me the difference between \$600 a claim and \$415 or \$420. That is the best of my recollection.

Q. At what time?

A. Just before the proof or about that time.

Q. About the time of proof? A. Yes.

Q. But that was to pay the entrymen with?

A. Well, yes, that was to pay—of course, I was out considerable; that was representing practically the \$600.

Q. Now, then, that would be 21 claims. Did he give you that for yours too? A. Yes.

Q. What?

A. Same thing for every one; no difference.

Q. The record shows you paid your own.

A. Oh, well, maybe I might have paid it in the Land Office. [716—753] I don't recollect whether I paid it or not; probably I did.

Q. Now then, when he paid you, two or three days afterwards—April 25th—you think he paid you the excess of \$600 a claim which the claims brought at the rate of \$5.50 an acre? A. Yes.

Q. Or was it \$5.25 an acre?

A. Well, I don't know now. It is either \$5.25 or \$5.50 that he paid.

Q. That would be about \$250 a claim?

(Testimony of S. A. D. Puter.)

A. Yes, something like that.

Q. \$280?

A. He paid me up in full, holding back one thousand dollars.

Q. Holding back one thousand dollars. Well now, that would be about between four thousand and five thousand dollars?

A. Well, let's see. The difference between, we will say \$5.50 an acre, that would be \$880 a quarter.

Q. Yes. That would be \$280 a quarter.

A. Now, 21 claims.

Q. Well, there were not 21. There were 19 of them. That would be \$5,320. Now, that would fall about \$2,000 short on that seven thousand, wouldn't it?

A. Well, he didn't probably, as I stated, that he may not have given me the full amount between \$411, that went to the Land Office, and \$600. He gave me a certain amount anyway, whatever it was. I had some money of my own, and whatever was necessary, I asked him to advance, and he did, and that must have been, with what money I had of my own on deposit at that time in the bank, and checked it out very shortly afterwards.

Q. Now, Mr. Puter, you know Andrew Christensen? [717—754] A. Yes, sir.

Q. You remember talking to him a good many times about this case? A. Yes, sir.

Q. Talking to me a good many times about this case? A. Yes.

Q. And you were very enthusiastic about the case, haven't you been?

(Testimony of S. A. D. Puter.)

A. I have been all the time.

Q. Very anxious to see the Government win?

A. Yes, sir.

Q. And do you recall that the statements that you made to me before this case was started were substantially in accordance with those printed in your book call "Looters of the Public Domain"?

A. Well, I saw a statement there today that I made before Mr. Rabb there, that I had not signed. Now, in substance that is correct, but I did not—there is certain things in there that I don't recollect.

Q. Well, but your book you remember writing that?

A. Yes, sir.

Q. Vouching for it?

A. Yes, sir.

Q. And you remember telling me just about what occurs in that book?

A. Yes.

Q. In relation to these cases. You remember on yesterday coming down on the train from Pocatello?

A. Yes, sir.

Q. That your enthusiasm was just as great?

A. Yes, sir.

Q. In talking to Mr. Christensen?

A. Yes, sir. [718—755]

Q. You remember meeting Finlay Morrison and Daniel Tarpley on the East side last night?

A. Yes, sir.

Q. You remember that since that time your enthusiasm has entirely died out?

A. Not at all.

Q. What?

A. Mr. Morrison met me on the east side for an important message from Johnny Logan, and told

(Testimony of S. A. D. Puter.)

me to go up to his house and see him, which I did.

Q. I show you a statement here, and ask you if that is a copy of the statement which you presented to the Secretary of the Interior of the United States in relation to these claims, about the time these suits were commenced, or a little afterward?

A. I suppose it is the same one I read upstairs today, isn't it?

Q. Yes.

A. Well, I notice I have not signed this, but I presume—I have not read it carefully over.

Q. You furnished Mr. Glavis with a copy of it, didn't you?

A. Well, if this is the statement, I furnished Mr. Glavis with one. Now, this is some time ago that I made this statement, and there is a good deal of it. I went over the matter as close as I could when I knew I was to be a witness here under oath, and I have endeavored to testify to the exact facts of the case right straight through; and I believe that, if I had a whole lot of correspondence, which it appears to me is all in evidence, I would not wonder but what it would corroborate me just about what I have stated. This in substance is right. There is one or two things in regard to dates, and one thing, that may [719—756] be a little off, because I didn't have the exact memoranda at that time.

Q. Well, you did make that statement?

A. Well, I don't know, I have not looked it over thoroughly. It seems to me it looks as if I had. I have not read it over carefully. I presume I did.

Q. Now, I will ask you if you did not make this

(Testimony of S. A. D. Puter.)

statement to me, and also write it to the Acting Secretary of the Interior, or to the Secretary of the Interior in about the month of January, 1909, and in that communication make this statement: "In the Spring of 1900 C. A. Smith, a multimillionaire lumberman of Minneapolis, Minnesota, F. A. Kribs, his Pacific Coast agent, and S. A. D. Puter of Portland, Oregon, entered into an agreement whereby the latter was to locate a group of entrymen on a large tract of timber in Linn County, Oregon, in the interest of Smith, who was to furnish all necessary funds, with the understanding that deeds to the various tracts thus acquired were to be made to whomsoever he might designate."

A. Yes.

Q. You remember making that statement?

A. Yes.

Q. In your communication to the Secretary?

A. Yes, sir. Just what I stated here today.

Q. That is what you have stated here today, and intended to state to-day?

A. I have.

Q. "Soon after the lands had been filed on, Smith, Kribs and Puter made personal inspection thereof, and upon this occasion Smith directed Puter relative to the method of transferring the titles."

A. Well, that now, since—I don't know whether, if I [720—757] said it in my statement—I believe it was Kribs said, when I asked him who this title should go to, John A. Willd. It is not Smith. I was mistaken when I made that statement, but I have corrected it by jogging my memory since that time.

Q. You think now that it was Kribs that directed

(Testimony of S. A. D. Puter.)

to whom the title should go?

A. Yes. I know it was not Smith—I am pretty sure of that.

Q. How is it as to that direction having been given at a time when you, Kribs and Smith looked at the lands?

A. Well, you see it appears that Smith visited the lands after the proof was made. I don't recollect that now—I don't know whether it was before or after—but I heard today, heard from you, that it was in May that Smith visited the lands with me; so if it was, it was after the title was conveyed.

Q. Well, did he ever visit them any more than the one time?

A. That is the only knowledge I have that he visited them.

Q. That is the only time you ever visited the lands with him?

A. That is the only time, in fact, I was ever on the lands up to a little while ago.

Q. All of these deeds had been made before May 20th, hadn't they?

A. Certainly.

Q. So that he could not have given you any such direction at that time?

A. No.

Q. It must have been Kribs, at some other time, who gave you that direction.

A. I believe it was Kribs, at the time that I was making the deeds; I asked him who would I have those—in case I got those entries, who would I have the deeds made to. [721—758]

Q. "Smith furnished the money with which to pay for the lands when final proofs were made, and

(Testimony of S. A. D. Puter.)

all the entrymen, in accordance with instructions from him, thereupon executed deeds in favor of John A. Willd, of Minneapolis, Minnesota, a stockholder in the C. A. Smith Lumber Company of that place, and likewise a relative of Smith's."

A. Well, to the best of my knowledge that is all right. The only thing that I am mistaken on there, as I said before, that it was not Smith.

Q. That told you?

A. That dictated who the deeds should go to.

Q. It was Kribs?

A. Yes. And the first paragraph there, where I stated that Smith, Kribs, myself and McKinley entered into this contract, that is all true, I spoke to Smith about conveying him some eight or nine thousand acres. I spoke to Kribs that I thought I could procure deeds to those lands. But it was definitely understood between McKinley and I that we was to get those lands on those conditions and that Smith was the man that was going to furnish the money, because I banked on him. And that is in accordance with that statement right through.

Q. Yes, but you say here that you entered into an agreement?

A. Well, what I meant by an agreement, it was a verbal understanding between McKinley and I that such was the case. But we didn't enter into an agreement only with Smith that he would advance the money, to see Mr. Kribs, and that he would take those lands. But he didn't know at that time the circumstances.

Q. You say in this statement here that "in the

(Testimony of S. A. D. Puter.)

Spring of 1900 C. A. Smith, a multi-millionaire lumberman of Minneapolis, Minnesota, F. A. Kribs, his Pacific Coast agent, [722—759] and S. A. D. Puter of Portland, Oregon, entered into an agreement whereby the latter"—that is you?

A. Yes.

Q. "Was to locate a group of entrymen."

A. Well, I just stated about the facts, as near as I can on that.

Q. Did they understand that you were going to locate a group of entrymen on any certain tract of land?

A. No. No one but McKinley and I understood that particular part of it.

Q. When was it Smith and Kribs first understood that particular part of it, now?

A. Well, as far as Smith is concerned, I don't know. It was a good deal—Kribs, I believe, was a good deal in the same boat that McKinley and I was, that is, to my opinion. We didn't tell, McKinley and I—we didn't inform Kribs the entire situation, and I don't think that Kribs informed Smith, but led Smith to believe that everything was all right, because the conversation—

Mr. LIND.—One moment. I ask to have this stricken out as not responsive to the question; no opportunity to object to it. I mean the reference to Kribs and Kribs' understanding.

Mr. UELAND.—Kribs being in the same boat.

COURT.—Let him state the facts as near as he can.

Mr. McCOURT.—I didn't call for all that stuff.

(Testimony of S. A. D. Puter.)

Mr. LIND.—I ask, your Honor, that it be stricken out.

Mr. McCOURT.—I think it is a narrative of the transactions occurring while these things were going on.

COURT.—Let it stay in the record for what it is worth.

Q. What do you mean by Kribs being in the same boat as [723—760] McKinley and you?

A. Well, that question is stricken out. I tried to explain that, what I thought. A man don't—it wasn't necessary for me to go into all the little details when I says to Mr. Kribs I could procure title to those lands for a certain sum. He didn't say he would take them, but I assumed that he would by his actions.

Q. And you went on and acted accordingly?

A. I acted accordingly.

Q. And he did too?

A. When I procured the deeds I come to him with them, and he paid me without any conversation about it.

Q. I see. Now, then, as to Mr. Smith I will ask you if you did not tell me, in the presence of Mr. Neuhausen—you know Tom Neuhausen?

A. Yes, sir.

Q. About the 15th of May, 1908, conversing about this very case, and the commencement of it, in my office, upstairs here in this building, that you met Mr. Smith in relation to this transaction in the early part of January, 1900, while coming through Minneapolis, told him of the tract of land that could be

(Testimony of S. A. D. Puter.)

located out here by putting persons on it from whom the title might be secured; that he suggested sending out a couple of carloads of Swedes to enter the lands; you replied and demonstrated to him that it would take two trips out here for such entrymen to make locations, and that it would cost at least \$200, and that you could get entrymen out here, living in the country, in the vicinity of the land, for not to exceed \$100 apiece, and gave Smith assurance that you could do that; and he says "Very well, go ahead and do it that way"; and that [724—761] that was the basis of your understanding with Mr. Smith as to these lands.

A. No, not these lands, sir. I had such a conversation with Mr. Smith.

Q. Before you entered these lands?

A. I think it was subsequent.

Q. Subsequent. How long afterwards?

A. Well, I think that was about, a little while after he got title to those lands. A conversation come up that he had a lot of men, Swedes, that would take up land, and what is the reason they could not be located. I told him it was expensive, and that you could get it under this Scrip Act cheaper, and you could get men out there. I didn't refer to any particular tract of land. It was not in reference to this land at all.

Q. You told me it was when you talked to me, didn't you? A. I don't think I did.

Q. What? A. No, I don't think so.

Q. You were not talking to me about any other lands at the time, were you?

(Testimony of S. A. D. Puter.)

A. I don't think I mentioned it was this particular tract of land.

Q. Weren't you urging me to commence this very suit? A. Yes, certainly.

Q. That was what you were talking to me about, wasn't it?

A. Yes. But when I made that statement, I didn't make no such statement as that to you.

Q. About the Swedes?

A. I guess I told you that about that. I think I told you the story about that, but I didn't state what lands it was. [725—762]

Q. And you didn't state that you saw Smith in Minneapolis? A. What?

Q. You didn't state that you saw Smith in Minneapolis in January, 1900, before you made this entry at all?

A. If I said it was in January that I had the conversation in regard to the Swedes, I was mistaken. It was after that time.

Q. You state in your book here, don't you, that it was in January, 1900, that you made the arrangement with Smith?

A. I state now that, in substance, that story is right; but since I didn't have the data in regard to the exact time, and I had to do a good deal of guessing at it, and I have learned since that it was sometime afterwards that we had that conversation.

Q. It was later then?

A. Yes. But it was not in relation to any land in particular that he suggested about those people taking up the land. I told him it would cost two

(Testimony of S. A. D. Puter.)

trips out here; that in regard to getting a title to land, it would be an expensive way, and they could be got cheaper under the Timber Act, or by entry-men here in Oregon.

Q. You did, however, state to the Secretary of the Interior, as well as to me, that you had your conversation with Smith in relation to these lands prior to the time that they had been filed upon at all?

A. I talked to Mr. Roosevelt and Mr. Woodruff.

Q. Yes. You told them that too, didn't you?

A. Yes, when I filed the statement there that time.

Q. That statement that I have been reading to you was filed with the President, too, wasn't it—submitted to him?

A. Well, if that is the exact statement, it was. I have not looked closely into it. I haven't read it over. [726—763]

Q. I can assure you it is the exact statement.

A. I presume that it is, though.

Q. Yes, you bet you. The purpose of this representation was to secure additional assistance for me in conducting the cases?

A. Yes. I know I made that pretty strong.

Mr. McCOURT.—I think that is all for the present, if the Court please, till I have an opportunity to examine these letters I have.

Whereupon proceedings herein were adjourned until May 4, 1910, at nine thirty A. M. [727—764]

S. A. D. PUTER resumes the stand.

Direct Examination (Continued).

Mr. McCOURT.—Out of the letters which coun-

(Testimony of S. A. D. Puter.)

sel handed me yesterday while S. A. D. Puter was on the stand, I have three or four that appear to relate to this case and I would like to offer them in evidence. I would also like to have the letters of Mr. Smith which were replies to these letters, or to which these letters were replies.

I wish to read into the record a telegram: "Washington, D. C., January 18, 1901. C. A. Smith, Care C. A. Smith Lumber Company, Minneapolis. If there was any way of knowing that sworn statements and Stratford report was sent I would stay here. S. A. D. Puter."

Mr. McCOURT.—A letter:

"The Raleigh, Washington, D. C.

January 18, 1901.

Mr. G. A. Smith,

Minneapolis, Minnesota.

Dear Sir:

Your two telegrams of today and letter of the 15th instant received. Evidently Fred has heard either from the Land Office or Mr. Stratford. The letter I received from Dr. Loomis stated that Stratford report would be all right. He stated he could not see why it should not be so, as there was no fraud that he could see at the time proof was put in, before or after. At any rate I don't trust those Special Agents that I do not know. They generally order everything for cancellation and very seldom succeed in cancelling anything, only to putting a fellow to costs. At any rate I want to get those patents as soon as possible, for the N. P. people will do their best to hang them up. At the present time

(Testimony of S. A. D. Puter.)

no one can do any [728—766] more here than I can. Those fellows who have charge of those cases in the Land Department here, have been as obliging and accommodating to me as they could; have given me all the information they possibly can. They have written Stratford to forward his report immediately to the Land Office also to send on those sworn statements. Without those they cannot do anything. I hope Fred will attend to that, as the Department has written now four times to the Land Office for them. If I thought those documents and the agents' report was on the way, I would stay right here until I got the patent, for as soon as the way is clear I could get all those patents inside of twenty-four hours. I will wire Fred this evening and see what information he can give me."

Mr. McCOURT.—The rest of the letter does not bear on this, but I suppose I might as well read it all in.

"Lawrence must have gotten my letter about the 16th or 17th instant, explaining everything regarding those last claims. I wired him the day I wrote him at Minneapolis. I presume that some of those fellows were about to sell to someone else and that is why he wired you. Some of them think nothing of giving an option one day and the next day selling to someone else.

"It is strange about those three letters. I had received a telegram from my wife just before I left Minneapolis stating that she had forwarded an important letter to me there. Inclosed is the Postmaster's answer. The Post Office there cannot ac-

(Testimony of S. A. D. Puter.)

count for them. Carrier had the letters Tuesday, but as I was out, he took them away with him. That is what the clerk tells me in the hotel. The carrier now does hardly recollect about them, only that he knew he had those letters. I wish you would [729—767] call the Post Office up by 'phone and ask them if they have been returned. If so, to forward them here.

Very truly, S. A. D. PUTER."

Mr. UELAND.—To save time we will admit in that connection that the portion of the letter following the reference to Lawrence refers to Mr. Puter's brother at Eureka, and relates to some land matters in Humboldt County, California.

Mr. McCOURT.—Yes, lands in Humboldt County, California, which Mr. Puter had contracted to sell to Mr. Smith at that time.

Q. Mr. Puter, the party mentioned as "Fred" in this letter, to whom did that refer?

A. Mr. Kribs.

Mr. McCOURT.—The next one:

"Congressional Limited, Pennsylvania R. R.
Apr. 25th, 1901.

Mr. C. A. Smith,
Minneapolis, Minn.

Dear Sir:

The agent Stratford made some mistake in his report. He was notified April 16 to make the corrections. Mr. Herman tells me that Stratford's mistake was a matter of small consideration and that as soon as they hear from him they would issue patent. I will have to go to Manistee, Michigan,

(Testimony of S. A. D. Puter.)

before I go home. I will bring receipt back with me.

Very truly,

S. A. D. PUTER." [730—768]

Mr. McCOURT.—Then one from—

“Lebanon, Oregon, August 17, 1901.

Mr. C. A. Smith,

Minneapolis, Minn.

Dear Sir:

Your letter of the 12 at hand, was forwarded from Portland here. In regard to the Rock Creek deal I don't understand what you mean. What has that to do with the Redwood Creek deal? Of course, I know you must be a little disappointed in not getting patents to those Rock Creek lands. Nevertheless I have don everything I can and it is only a matter of time when those patents will issue. I haven't the least doubt about that. If we had kept away from those Special Agents in the first place the patents would have been issued now. They are the ones that are holding them up. However, now it may take from one to two years before those patents are issued in that case *shurly* you do not think I could wait untill then for a settlement in the Red Wood Creek deal. As I wrote you before I have close to \$6000 dollars of my own money in the Red Wood Cr. deal. I now owe Mr. Ed Bond \$5.00 per day since Davis went to work also I owe the Eureka Bank and I have to settle those bills, also Mr. Watkins wants what money is due him. I see by Mr. Davis report that unless we can settle regardless of the contract I would have to prepare to take those lands back and in that case I would want a little

(Testimony of S. A. D. Puter.)

time. I want a settlement some way in those lands. I want to know where I am at. It is verry easy to settle with me in any transactions. I am going back to the Deschutes River today and expect to be back in Portland in 10 or 12 days as Mr. Kribs wants me there on some bus. in regard to the Rock Creek lands. Mr. Davis tells me that Coffin offered his claim to him for \$2500 and at the same time offered it to you for \$2300. I would like to know if that is [731—769] so. I expected to have to pay anyway \$2500 for those claims, and I thought they never could be got for that. I would like to have you keep me posted in what you hear about those Prairie Creek claims. I would not want to go east now unless I could come to a settlement with you. I have not the time, neither the money to spare.

Very truly, S. A. D. PUTER."

Q. What lands are referred to as the Rock Creek lands?

A. That is the 33 townships in 14-2, 3 and 4.

Q. The lands involved in this case?

A. Yes, sir.

Mr. UELAND.—And the Prairie Creek refers to Humboldt County, does it not?

A. The Prairie Creek land is redwood lands in Humboldt County.

Q. Also the Redwood Creek lands are—

A. Humboldt County lands.

Mr. McCOURT.—The letter I am now about to read is in answer to the letter of C. A. Smith of July 26th relative to the Northern Pacific contest.

(Testimony of S. A. D. Puter.)

“Portland, Oregon, July 31, 1900.

Mr. C. A. Smith,

Minneapolis, Minn.

Dear Sir:

Yours of the 26th inst. at hand and contents noted. Regarding those 24 $\frac{1}{4}$ sec. that I gave up to the N. P. Co., just leave that to me. I will get those claims when the right time comes to act. I have been in communication with the U. S. Land Comm. in regard to the N. P. Co. receiving patents to selections of those Oregon lands. He informs me that they will receive no patent to any of those lands during the year 1900.

As soon as I get the patents to your lands which I expect to get now within 60 days this is when I will open up negotiations with the N. P. Co.

The N. P. Co. has no land on Rock Creek except the 24 $\frac{1}{4}$ se that I let them have. As soon as I have, I will see [732—770] some parties who own sec. 34, 35 and 36-14-2 and try and get them for you as they are as good as any land in the tract. Mr. K. wrote me on the 23rd instant stating that he had sent Birt Davis and Douglas”—

Q. Is that Douglas? A. Yes, Douglas.

Mr. McCOURT.—(Continuing.) —“on a cruise and that they would start from Coos Bay down the coast to Prairie Creek about August 7th. I expect to start myself for Grants Pass this eve and will probably meet them at Crescent City. 98 in the shade here yesterday.

Very truly,

S. A. D. PUTER.”

(Testimony of S. A. D. Puter.)

Mr. McCOURT.—Now, have you any of those handy?

(Mr. Ueland produces letters.)

Mr. McCOURT.—This letter is not in reply to any of those, but I wish to read it into the record just the same—June 25, 1900. I suppose this is Minneapolis. The copy does not show.

Mr. LIND.—I presume so, yes.

“June 25/00.

Mr. S. A. D. Puter,

Portland, Oregon.

Dear Sir:

I am very much surprised to receive advice from Mr. Kribs that only about 6200 acres of the lands covered by the contract could be deeded at this time. Have just wired you asking for explanation. In as much as you contracted to deliver this land before the 1st. of July, and in as much as you assured us at different times before my return from the Coast, that the papers were all ready for all of the lands for immediate delivery, that the same would all be delivered any day that Mr. Kribs might come to Eureka and pay the money [733—771] in accordance with the contract, I am certainly very much surprised at the receipt of advice of the present conditions; especially in as much as Mr. Kribs was kept at Eureka for a number of days when the understanding was as above, that everything was all ready and could be closed up in full in a few hours.

I am not as yet in position to say anything regarding the other lands and will not be for a couple of weeks or such a matter.

(Testimony of S. A. D. Puter.)

I wish to thank you and your estimable family for the many kindnesses shown me during my recent visit. I shall never forget the pleasant trip we had together, and wish you would kindly remember me to your estimable wife, and extend to her for me, my sincere thanks for her many kindnesses during this trip. By the way, upon my return I found that the Miss. River had gone back on us. We are having the worst drought in this section that we have ever had as long as anyone remembers. Having had practically no snow last winter and no rains this Spring, the creeks and rivers are drying up so that but very few logs have been brought out into the Miss. River, and after being so brought out the water is so low even in the Miss. River that the driving of the logs is an impossibility, and in consequence the saw-mills have been idle for a couple of weeks, and without very heavy rains very soon the lumber cut along the river, both at this point and below, will be very materially reduced.

It is reported that twenty-eight saw mills in the White Pine region are now idle, and have been for sometime.

On account of this drought the crops of all kinds will be a failure in Minnesota, and North Dakota, and a large portion of South Dakota, as I understand it. This condition of things naturally does not tend to make us happy. With many regards,

Yours truly,

C. A. SMITH LUMBER CO.

C. A. SMITH."

Mr. LIND.—That doesn't relate to the matter in

(Testimony of S. A. D. Puter.)

issue. That relates wholly to the redwood lands.

Mr. McCOURT.—Yes, I understand. The purpose I wanted to read the first part of it was to show the relationship between Mr. Kribs and Mr. Smith and also the close relations between Mr. Puter and Mr. Smith. That is the only purpose. I concede it refers to Humboldt County lands.

The next is a letter—

“January 15, 1901.

Mr. S. A. D. Puter,

% National Hotel,

Washington, D. C. [734—772]

Dear Sir:—

I am in receipt of yours from Milwaukee, and also your telegram from Washington, I have also wired Mr. Kribs regarding the matter, and hope that he will take immediate action. Meanwhile I hope to receive from you full information. Anything under heaven that can be done in order to pull these patents out must be done, and I should think you are in better position than we are to secure this speedy action.

I received a telegram from your brother Lawrence, to-day asking for the description of this last deal, by wire. He has been trying to reach you, but has failed. Perhaps you had better wire him where he can reach you. I telegraphed him the description (six or seven dollars' worth) in order to hurry the matter.

Yours truly,

C. A. SMITH LUMBER CO.

C. A. SMITH.”

(Testimony of S. A. D. Puter.)

Mr. McCOURT.—I will read the letter of Mr. Puter to Mr. Rogers and the answer:

“Portland, Oregon, June 11, 1892.

Mr. McCOURT.—It is dated 1892, but should be 1902.

“Mr. A. P. Rogers,
Minneapolis, Minn.

Dear Sir:

I wired Mr. Smith the morning of the 9th wanting to know if he would be at home Thursday. You answered that he was leaving there Wednesday for Europe. I wired him again that afternoon wanting to know if he couldn't settle with me before he went to Europe. I got no answer to that message. He must have received it at about 5:30 [735—773] P. M. on the 9th. Mr. Smith owes me \$10,467.85 dollars. This money is not commission on the deal, but it is my own money which has been tied up waiting the perfection of the Oregon land titles and also the Humboldt Co. lands. The Oregon lands are all patented and the Humboldt Co. lands are all fixed up, so far as the title is concerned, except about \$30 or \$40 dollars back taxes. Now I have been out the use of that money for a long time and I want to use it at the present time very bad. Has Mr. Smith said anything to you regarding this money, or can you settle with me. He knew while he was in California this last time that my contract was completed and that I ought to get my money. Anything that you can do for me will

(Testimony of S. A. D. Puter.)

be kindly appreciated.

Very truly,

S. A. D. PUTER."

Q. Who was Mr. Rogers?

A. Well, I believe he is either the Vice-president or the Secretary of the C. A. Smith Company at that time.

Q. The C. A. Smith Lumber Company in Minneapolis? A. Yes.

Mr. McCOURT.—The answer is:

"June 18, 1902.

Mr. S. A. D. Puter,

Box 809, Portland, Oregon.

Dear Sir:—

Your favor of the 11th received and noted. I presume the reason your telegram was not answered was because Mr. Smith was very busy and probably forgot it, or delegated it to some one else, or failed to answer it at least. [736—774]

With reference to your contract, as I understand it this matter is still unsettled. I will write to Mr. Kribs and ask him for information regarding it and also our attorneys. I have paid no attention to this matter, except in a general way, and it may be necessary for me to investigate the matter before I can say anything definitely either way. I will, however, write to Mr. Kribs and see what I can learn.

Yours very truly,

C. A. SMITH LUMBER COMPANY,

A. R. ROGERS."

Mr. McCOURT.—Letter—

(Testimony of S. A. D. Puter.)

“August 5, 1901.

Mr. S. A. D. Puter,

Portland, Oregon.

Dear Sir:—

I am in receipt of yours of July 26th, and as stated before, both by wire and letter, I do not feel that I can make any further advances or payments until after all of our deals are finally closed up and adjusted in full, in accordance with our contracts, agreements and understandings.

If I felt that I was in position to assist you in this matter, or in any other matter, it would certainly give me pleasure to do so.

Yes, I understand Mr. Davis expects to be through with his work along about the 10th of August. I shall, however, not be able to go out to the Coast until sometime after his return.

Inasmuch as you have failed to give me your post-office address in this last letter, and in the several last letters, but have advised that you were kiting around the [737—775] country, not expecting to stay in any particular place sufficiently long for a letter to reach you, I am sending this answer to your home, enclosing the stock certificate which I received with yours of the 26th, and registering the letter, hoping that it will reach you safely.

Yours truly,

C. A. SMITH.

Enclosure.

Registered letter.”

Mr. McCOURT.—Letter—

(Testimony of S. A. D. Puter.)

"August 12, 1901.

Mr. S. A. D. Puter,
Portland, Ore.

Dear Sir:—

Answering yours of the 6th inst. from San Francisco just at hand, have nothing further to add except to verify the telegram sent you on the 7th and 8th. Neither you nor we had the remotest idea a year ago that there would be any trouble regarding the Rock Creek lands. Everything is being done, as I understand it, that can be done in order to facilitate the ultimate results of that matter, but under the circumstances I feel that we should not be called upon for the payment of any more money, or have a final settlement, until such a result is reached. I understand that you may be somewhat disappointed but I think you must realize that I am also disappointed. I fail to see how any benefits could accrue to you in coming east under the circumstances at the present time.

Yours truly,
C. A. SMITH LUMBER CO.,
C. A. SMITH."

Mr. McCOURT.—Letter—

"Aug. 29/01.

Mr. S. A. D. Puter,
Portland, Ore. [738—776]

Dear Sir:—

Referring to yours of the 17th. Mr. Davis returned some days ago, and on account of being, and having been confined to the house since before his return,

(Testimony of S. A. D. Puter.)

I have been unable to examine his reports in detail. When I have done so and can send you data will be pleased to do so.

As to your coming East. You will have to be your own judge. As stated numerous times, I feel that a final settlement should not be expected under the circumstances, and can hardly be made until all of our deals can be closed up and cleaned up at one time.

After full and mature consideration on your part I believe you can hardly expect any such final settlement until such time as stated above, at least I am satisfied if you could put yourself in my position, looking at it entirely from my standpoint, that you would not expect it.

Yours truly,

C. A. SMITH LUMBER CO.,

C. A. SMITH."

Mr. McCOURT.—Letter—

"Jan. 10/02.

Mr. S. A. D. Puter,

Portland, Ore. General Delivery.

Dear Sir:—

Referring to yours of the 4th, Mr. Kribs expects to leave here on or about the 15th, for Portland, when he would like to confer with you regarding the matters about which you write.

With the compliments of the season and many regards,

Yours truly,

C. A. SMITH LUMBER CO.,

C. A. SMITH."

(Testimony of S. A. D. Puter.)

Mr. McCOURT.—For the purpose of making sure that the record shows it, I wish to fully understand what is the fact as to the correspondence between Smith and Kribs between April, 1900, and say, the 1st of September, 1902, as to whether there is any such correspondence or not.

Mr. UELAND.—Well, I have some memoranda at the hotel that I will get. I said the other day that I thought it related entirely to the lands covered by suit 3318. Some of this memoranda may refer to this matter.

Mr. LIND.—It is a memorandum—a word or two in checking—could not be called letters.

Mr. McCOURT.—There must have been letters exchanged between the parties covering these matters. If there were I would like to see them.

Mr. UELAND.—We haven't any.

Mr. McCOURT.—Do you know whether or not they are in existence or what became of them?

Mr. LIND.—We have not succeeded in getting anything. We made the same inquiry ourselves.

Mr. McCOURT.—From Mr. C. A. Smith and C. A. Smith Lumber Company?

Mr. LIND.—From Kribs and C. A. Smith. At the Minneapolis office we asked for all of the correspondence in these suits and got this bundle.

Mr. McCOURT.—(To Mr. Tanner.) I understand that Mr. Kribs hasn't his correspondence prior to December, 1902, which you gave me the other day.

Mr. TANNER.—No.

Q. Now, during this period between April, 1900,

(Testimony of S. A. D. Puter.)

Mr. Puter, and August, 1902, how frequently do you recall that Mr. Smith was here in Portland? [740—778]

A. Well, I couldn't say exactly. I met him at least three or four times.

Q. Here in Portland?

A. Well, at Portland and Roseburg—San Francisco.

Q. He usually made his headquarters where Mr. Kribs was, did he, while in Oregon?

A. Well, he always stayed at the Portland Hotel at that time.

Q. When he was here at Portland?

A. Yes.

Q. I notice, Mr. Puter, in the—what is called the Stratford affidavit here, that you made an affidavit which you testified to yesterday. I notice the name of J. P. Hanlan being mentioned, John Hanlan, as the party who negotiated the purchase of the lands for Mr. Willd. Who is this man? Who was this man Hanlan?

A. Really I don't know.

Q. Did you ever know of such a man?

A. No.

Q. Was there any such man had anything to do with the transaction at all?

A. Not that I know of.

Q. You would have known it if there had been?

A. Well, up to the time that I made transfer I would.

Q. Yes? A. Certainly.

(Testimony of S. A. D. Puter.)

Q. And do you know whose—who selected the name Hanlan in that affidavit there. A. No.

Q. And used it? A. No.

Mr. McCOURT.—I want those checks that you spoke to me about, Mr. Tanner—those you gave me the amounts and dates of the other day. Have you them? [741—779]

(Mr. Tanner produces checks.)

Mr. McCOURT.—I offer in evidence check dated May 16, 1900, in favor of Henry Booth, Receiver, for \$5962.60 drawn by Mr. Kribs upon the First National Bank of Roseburg, this check constituting the payment on final proofs made upon that date in this case.

Mr. LIND.—No objection.

Marked “U. S. Exhibit 191.”

Mr. LIND.—As to what those checks are for I have no—

Mr. McCOURT.—No, I can't testify on this, so I am not going to try.

Mr. LIND.—What I meant to say was, I could not assent to any statement as to what for.

Mr. McCOURT.—I am not prepared to make any statement in regard to this; I don't know.

Q. I hand you, Mr. Puter, check dated April 25, 1900, in your favor for \$7,349.25, signed “Fred A. Kribs” endorsed by you, and ask you whether or not that was a payment made to you in relation to the lands in this case?

A. Yes, that was the payment—that was the—that check was given at the time I handed Mr. Kribs

(Testimony of S. A. D. Puter.)

the deeds, I believe, to the 21 entries. That amount was practically my commission and money that I had paid out.

Mr. McCOURT.—I offer the check in evidence.

Marked "U. S. Exhibit 192."

Q. I hand you another check dated May 8, 1900, payable to you on the First National Bank of Roseburg, for \$3,500.00, drawn by Mr. Kribs, endorsed by you, and ask you if you have any recollection as to what that payment related?

A. Well, I—to the best of my recollection, that check must be for the balance due on the other 14 entries that [742—780] I had secured several days later.

Q. Well, the proof had not been made on them at that time Mr. Puter? The proof wasn't made until May 16th.

A. The proof wasn't made until May 16th?

Mr. UELAND.—Wasn't the proof made April 18th?

Mr. McCOURT.—April 18th on the first batch and May 16th on the next.

A. Well, really now I don't recall. As I stated yesterday those 14 claims that was turned over afterwards, it has gone out of my memory, right when I procured the deeds for them.

Mr. McCOURT.—Well, we will offer the check in connection with the Kribs account.

Marked "U. S. Exhibit 193."

Q. I now show you check in your favor for \$1,000 on the same bank drawn by Mr. Kribs on May 16th,

(Testimony of S. A. D. Puter.)

the date at which the second lot of proofs were made?

A. Well, really that is the same as the other. It—I am pretty sure that it is pertaining to those lands. I can't state exactly the exact conditions, but that was about the date, I know, so that for—when did you say the proof was put into these 14?

Q. On that date.

A. On that date. Well, I don't know. It would take—it would be more than that. I don't know how it came to be only a thousand dollars.

Q. In connection with that I hand you check of May 22nd, drawn on the same bank in your favor, for \$9,000, Mr. Kribs, drawer, endorsed by you. Was that in connection with these lands or some other lands?

A. Well, I stated yesterday that I was—I thought Mr. Smith had paid me about that amount of money on the [743—781] Humboldt County lands. Now it might have been Mr. Kribs.

Q. Gave you the \$9,000 on the Humboldt lands?

A. Yes, it seems to me there was no such figure as that coming to me on the Oregon land, so this must be in reference to the Humboldt County lands. I am not—

Q. That was at the date Mr. Smith was here in Oregon? At that date?

A. *Unhunk.*

Q. You recall that?

A. No, I don't.

Mr. McCOURT.—It will conceded he was here May 22d, 1900.

Mr. LIND.—Yes.

Mr. McCOURT.—I offer both checks for what

(Testimony of S. A. D. Puter.)

they are worth.

Check of May 16, 1900, marked "U. S. Exhibit 194."

Check of May 22, 1900, marked "U. S. Exhibit 195."

Cross-examination.

(Questions by Mr. LIND.)

In the letters just read into the record, it would appear that a difference of opinion arose between you and C. A. Smith, in the progress of your correspondence with reference to your business matters. Is that true?

A. Well, in what light.

Q. Well, in regard to paying you?

A. Oh, yes.

Q. When did you first begin to have a difference of opinion with Mr. Smith in regard to payment for your redwood and [744—782] other lands that you had sold him or contracted to sell him, if you recall?

A. Well, at the time that I got through with the redwood deal; that is, turned over the last claim, I fell short two or three thousand acres on the original contract, and I wanted to make a settlement with Mr. Smith and he was willing to settle providing I complied with my contract, which was an utter impossibility for me to do. So in order to get relieved from that contract, we modified it. In order for me to get what money I had out—already paid out. And in modifying that contract, I forfeited all commissions that I was to receive in the Humboldt County deal and all I was to get back was actual cost to me of those lands, and that was due and payable when

(Testimony of S. A. D. Puter.)

the title to the Humboldt County lands was perfected, and other lands in Oregon. Now, in drawing up that contract, I overlooked that line "other lands in Oregon." Did not think it had anything to do with the Oregon deal.

Q. Well; it didn't, as a matter of fact?

A. It did not, but Mr. Smith—

Q. You regarded that as sharp practice on his part? A. Yes, it was, too.

Q. Sticking that in? A. Yes, sir.

Q. Well, that made you quite angry, didn't it?

A. Well, I should say it would.

Q. Now, you spoke about commissions on the Humboldt land. It wasn't commissions, was it?

A. Well, it was—I call it commissions. I sold him those lands—was to sell him those lands at \$9.50—at \$9.50 per acre.

Q. You sold at a contract price? [745—783]

A. Yes.

Q. To him, and bought as cheaply as you could?

A. Yes, sir.

Q. He was not paying you any percentage or anything?

A. Well, between the cost price and the price Smith was to pay to me was in the neighborhood of twenty-seven or twenty-eight thousand dollars coming to me on the property.

Q. And you felt that, in a measure, he didn't concede you all of that profit? A. Yes, sir.

Q. You became, as a matter of fact, very hostile to Mr. Smith, did you not?

(Testimony of S. A. D. Puter.)

A. Well, I should say I did on that transaction.

Q. And threatened him a good deal?

A. What is that?

Q. And threatenend him in various ways that you would cause trouble?

A. Well, I did not. I endeavored every way in the world to get that money from him.

Q. Well, now, as a matter of fact, when you wrote—it appeared in evidence yesterday that you figured something as an author. I believe you published a volume entitled “Looters of the Public Domain”—some such name—“Looters of the Public Domain.” You published that volume, did you not?

A. Yes, sir.

Q. In what year?

A. It came out in May, 1908.

Q. At the time you prepared that book you were very hostile against Mr. Smith?

A. I should say I was. I had good reason for it. The book shows it. [746—784]

Q. Well, we are not discussing your reasons now, Mr. Puter. You thought you had and still think you have, probably. I will concede that. A. Yes.

Q. Now, as a matter of fact, didn't you make Mr. C. A. Smith one of the heroes of that volume that you published? Who is the real hero of that volume? A. What do you mean by the hero?

Q. Oh, the most prominent—yourself or Mr. C. A. Smith, from your standpoint?

A. Well, I endeavored to transfer my title from “King of the Land Fraud Ring” to—

Q. To C. A. Smith?

(Testimony of S. A. D. Puter.)

A. To C. A. Smith, King of the Land Fraud Thieves.

Q. That is the spirit in which you wrote it?

A. Yes, sir.

Q. That is the spirit in which you communicated with the Government in regard to his affairs, wasn't it?

A. What is that?

Q. That is the spirit in which you communicated with the President and the Interior Department—

A. Oh, no.

Q. —in regard to these matters, wasn't it?

A. No, not exactly.

Q. Do you think that you were fair in any statement with reference to C. A. Smith that you made to the President or to the Interior Department?

A. Oh, yes, I was. I may have made it a little stronger as any man would in order to get action, but the sum and substance of the story is just as I stated.

Q. Well, what is it? [747—785]

A. Sir?

Q. Wasn't that written rather as a financial investment than as a historical record?

A. Oh, no, not at all.

Q. What was your real object in writing that book? Do you mean to say that you intended it as a historical record for the State of Oregon?

A. Well, I don't know how a man gets an idea into his head. Someone puts it there and he starts off.

Q. Didn't you plan to make money out of that? Didn't you hope to?

(Testimony of S. A. D. Puter.)

A. Well, I didn't know about that. It was something new to me. I never was in that business before and had no idea.

Q. Didn't you aim to make it as racy—

A. What is that?

Q. Didn't you aim to make it as racy and as sensational as possible?

A. Well, did you ever see a story book written up but what wasn't a little that way?

Q. Exactly. I confess I never did. And really, a goodly share of that is romance, rather—

A. What is that?

Q. A goodly share of that is romance rather than history? A. Oh, no, I don't know; very little.

Q. Now, you succeeded in that, in getting the Department of Justice of the Government to finally collect this claim for you by threatening indictment against Smith?

A. Oh, no, I got it myself without any help from the Department of Justice or anybody.

Q. Mr. Puter, didn't I understand your testimony of yesterday to indicate that it was communicated to Mr. Kribs and [748—786] Smith that you would go before the grand jury and procure an indictment against him unless this claim was paid?

A. At the time Kribs was making affidavits for Mr. Heney, I went to him and says, "Here, Mr. Kribs"—I think I showed him an article that I was going to have published in the "Oregonian" telling where Mr. Smith had been indicted in Minnesota, and I was going before the grand jury, and I was going to induce it to indict him on these lands unless

(Testimony of S. A. D. Puter.)

he paid this money that was due me, and I would give him four days to do it. Now, I didn't consult the Department of Justice, Mr. Heney, Mr. Burns or anyone, only Mr. Kribs.

Q. Didn't Mr. Burns know what you were doing at that time? Weren't you in his confidence—his assistant?

A. No, Burns—I held that thing off for four or five days. Both he and Heney was after me every day wondering what it was held up for. Didn't have the least idea; never heard of it so far as I know.

Q. Didn't they know or suspect that you were forcing a private settlement or trying to?

A. Not to my knowledge.

Q. Are you certain of that?

A. Why, I am; of course I am.

Q. Are you as certain of it now as you were when you wrote your book?

A. Why, certainly.

Q. Now, as a matter of fact, you had Mr. Burns call Mr. Kribs before him a number of times, did you not?

A. Had what?

Q. Had Mr. Burns call Mr. Kribs on the carpet a number of times?

A. Yes, sir. [749—787]

Q. In regard to these matters?

A. Yes, sir.

Q. Wasn't the reason for that on your part that you hoped by that means to enforce payment of your claim?

A. Well, not on the start it wasn't; until the thing was—that came to me all at once, just about the last—just four days before the payment was made.

Q. Was it kind of an inspiration?

(Testimony of S. A. D. Puter.)

A. It never occurred to me when I started in on that, however, that I was to get any money out of it. That was to come to me.

Q. Didn't know you could use Uncle Sam to help you collect the bill?

A. No, sir, never thought of that.

Q. Well, you did finally, though?

A. Yes, it was a pretty good opportunity. I saw a good chance there and I thought I would use it.

Q. You thought you had Mr. Kribs pretty well frightened, didn't you?

A. Yes, I think I had Mr. Smith frightened too.

Q. Possibly. Now, Mr. Puter, what methods were pursued with regard to this land with Mr. Kribs and others that were called before Burns in your presence?

Mr. McCOURT.—It hasn't been shown that he was present.

Q. You were generally present with Mr. Burns, were you not, when he interviewed the entrymen and when he had men on the carpet, as the term goes, like Mr. Kribs?

A. Oh, yes, I had seen him interview him.

Q. You were his chamberlain, so to speak? You had charge of the room? A. Oh, no. [750—788]

Q. Didn't you receive the visitors?

A. No, I didn't have anything to do with that room. I went in there and was there. I had nothing to do with Burns; didn't assist him in any way.

Q. Didn't he consult with you a great deal?

A. Not very much. We wasn't very friendly at that time.

(Testimony of S. A. D. Puter.)

Q. Didn't he, according to your own book, leave it for you to prepare statements to be signed by the entrymen and others who came in to interview him in response to subpoenas of the District Court?

A. There was only one or two on that case. All of those entrymen Burns handled them himself until a certain stage of the game.

Q. But you were present?

A. Well, a few times I was in the room or one of the other rooms in there.

Q. What was the method pursued by him to obtain these statements at that time?

Mr. McCOURT.—Just a moment. I would like to find out whether there were any of the men, with whom he was present, that are involved in this case.

Mr. LIND.—I don't know; I will say that frankly.

Mr. McCOURT.—Burns was engaged here four or five months—two or three years for that matter.

Mr. LIND.—I wish to say to the Court that I don't intend to pursue this line of investigation extensively, but I would like to place the exact facts before the Court in regard to what transpired.

COURT.—So far as this witness knows.

Q. (Read.)

A. Well, these people would be subpoenaed to come before [751—789] him here at the Portland Hotel.

Q. At room what?

A. 10, 11 and 12. And answer questions in relation to their—to those entries that they had taken up and transferred to John A. Willd.

Q. Well, now, in the course of the questioning

(Testimony of S. A. D. Puter.)

did Mr. Burns become violent; did Burns become violent and use severe language?

A. Oh, yes, I have heard him several times.

Q. It has appeared in the testimony here that he sometimes cursed the witnesses—swore at them.

A. Yes, I could hear him from one room to the other, very frequently that way.

Q. Threatened imprisonment? A. Yes, sir.

Q. Taking them before the grand jury?

A. Yes, sir.

Q. As a matter of fact, they were a frightened lot, were they not?

A. I don't know; he attempted to frighten them, but he didn't seem to succeed. He used every method he could but he fell down on it and he would kick them out of the room. They didn't make any affidavits on those threats.

Q. But those that did finally succumb, did he keep at them and keep at them?

A. No, the affidavits that Burns got came of their own accord. He didn't—it wasn't at his solicitation at all.

Q. Mr. Puter, didn't you say to some of those yourself, that the only way that they could secure immunity was by confessing to criminality?

A. It was me that brought them in there in the first place. It wasn't Burns. Burns didn't succeed in getting a single [752—790] one.

Q. And you went and told them that in order to be immune from prosecution before the grand jury and in the Court, they would have to confess to guilt? Didn't you tell them that?

(Testimony of S. A. D. Puter.)

A. They would have to what?

Q. Confess to wrongdoing—confess to guilt?

A. I think I did. I told them to come in and tell the facts in this case.

Q. Well, and didn't you, if the facts didn't suit you, didn't you tell them, "Boys, you have got to show you did wrong. If you didn't do any wrong the Government has nothing to forgive and you are not immune." Didn't you make statements of that character?

A. There were two men, Allie Houser and Andy Nicholls. After Burns failed with those two, I took them in hand and broke them down, and made them tell the exact facts of the case. And so far as all the rest was concerned, they came themselves. Burns didn't get them.

Q. They came after those threats had worked a sufficient length of time and after they had been bullied and bullyragged and given to understand they could not get immunity from prosecution until they confessed that they had violated the law?

A. Yes, I guess that is so.

Q. Now, in reading this volume of yours, I run across this statement to which I will call your attention. This is from page 81. I will read: "It was the understanding that these persons were to file on a timber claim and make final proof thereon," etc. This doesn't purport to refer to the claims in suit, but I will read this extract and then inquire about it. In my judgment it is— [753—791]

Mr. McCOURT.—What case does that refer to?

Mr. LIND.—I don't know the case. It is chapter

(Testimony of S. A. D. Puter.)

6, page 81. It relates to his method of making entry.

Q. You proceed and say: "I likewise had a clear cut agreement with each locator whereby I was to charge them \$150 as my filing fee, with the understanding that I would find somebody willing to loan \$600 on each claim at the time of making final proof, the locators agreeing to execute a mortgage on their claims for that amount as security for the loan. This mortgage was to run one year at ten per cent interest annually, and it was provided further that my location fee was to be deducted from this loan.

* * * I was particular in impressing McCullough with the idea that under no circumstances whatever were the locators to offer their claims for sale before making final proof, and that neither the person advancing the \$600 nor myself, had any intention of purchasing the lands after the locators had acquired final title. In general terms, I sought to create the impression that good faith was to be observed all around in the transactions involving the acquisition of title to these lands," etc. Is that true?

A. Exactly true. That is in relation to 108 entries over in Eastern Oregon.

Mr. McCOURT.—I object to that as being an entirely different transaction altogether and there is no rule by which one might assume similar conduct.

Mr. LIND.—That is what I want to find out, whether that outlines the general scheme that he pursued.

Mr. McCOURT.—I object to it as not proper cross-examination and immaterial. You can cross-

(Testimony of S. A. D. Puter.)

examine on the methods which he pursued in the transaction in question, [754—792] rather than state some other proposition and ask if he did not do that way.

COURT.—I think it is legitimate cross-examination of this witness.

Q. Wasn't that substantially the method that you pursued in locating timber and stone entries generally? A. Yes, sir.

Q. You say further on on page 84: "Although I had never intimated to the locators in any way, shape or manner that it was my ultimate purpose to purchase these lands after they had been proved up on, yet I intended doing so all along, as I was well aware that on account of their financial condition my \$600 equity in each claim would make me master of the situation, and that by advancing them from \$200 to \$300 additional, they would only be too glad to execute a deed in favor of whomsoever I might designate." A. Yes, sir.

Q. That was also your plan? A. Exactly.

Q. Now, for instance, in regard to entries in suit, the men—didn't you know any of the men who filed on the claims, the 33 claims involved in this action?

A. Very few—two or three.

Q. Did you have any personal contact with any of them except those you named yesterday?

A. No, sir.

Q. You knew in a general way what class of men they were?

A. Well, when I talked to McKinley—

(Testimony of S. A. D. Puter.)

Q. You relied on McKinley to get the right class, didn't you?

A. Yes, and I instructed him, as stated yesterday, under no circumstances to let the men know or talk to them—

Q. Well, you pursued the same method outlined in your book, [755—793] didn't you—same plan?

A. Yes, only that I had instructed McKinley, in this instance, to convey through other parties, that there would be \$100 in it, but under no circumstances was he to talk to them, and I presume he did that, because I was a little afraid to trust some of them.

Q. You found McKinley pretty reliable? Just about as clever in handling those matters as yourself, did you not? You had perfect confidence in McKinley's cleverness to handle a situation of that kind, did you not?

A. Well, I did, but he got a few people he shouldn't have taken—afterwards. I thought at the time it was all right, but he was a little reckless in selecting men; that was all.

Q. Wasn't it your idea to select men and to talk to them in such a way that they could go there and make the filings and make the mortgage and make the deed, with absolute innocence, on their part, of any intention to violate any law?

A. Certainly; I instructed him to be very careful on that.

Q. That was your plan on all of your proofs, wasn't it? A. Yes, sir, certainly.

Q. And then you expected that, by reason of the

(Testimony of S. A. D. Puter.)

situation, the lands would come to you anyway?

A. Well, I had to pursue that course in order—
for my own protection.

Q. Exactly. Now, the lands at that time, that
you took up in the Rock Creek country—the timber
land involved in this suit—those lands had no
market value before you went in there, did they?

A. Well,—

Q. Was there any market value for timber up
there at all?

A. Well, there wasn't hardly anywhere at that
time. \$5.00, about \$5.50 was the top price. That
was as good land as [756—794] anywhere.

Q. You were hawking the best timber lands in
the State, obtained on school land selections, all
over the East, in 1900, at \$3.50 and \$4.00 an acre,
were you not? A. Yes, sir.

Q. As a matter of fact, the first time you ever
met Mr. C. A. Smith you tried to interest him in a
batch of school lands that were in hock with another
man? A man by the name of Baldwin at La
Crosse? A. Yes, sir.

Q. Is that true? A. Yes, sir.

Q. Had you ever met Mr. C. A. Smith before
that time?

A. I don't—I may have, but I think that was the
first time.

Q. That you had ever seen him in your life.
You had at that time a large area of Oregon school
land certificates in pledge with a man by the name
of Baldwin at La Crosse, Wisconsin, did you not?

A. Yes, sir.

(Testimony of S. A. D. Puter.)

Q. Appleton, Wisconsin, I mean. And the time for redeeming these, if he didn't choose to buy them, was about expired, or would expire shortly?

A. They would expire on the 1st of March, 1900.

Q. And a man by the name of Bohn suggested that you call on Mr. C. A. Smith at Minneapolis; that he might—

A. Who?

Q. A man by the name of Bohn suggested that you call on C. A. Smith at Minneapolis.

A. Yes, sir.

Q. And that he might take those—advance the money to redeem from Baldwin and eventually buy the lands?

A. He was the man that introduced me, I think, to Smith. [757—796]

Q. And you met him by Bohn's introduction?

A. I think, yes—I think I may have met him before, but I believe that was the first time that I had—

Q. As a matter of fact, in the course of your negotiations with Smith on that occasion, didn't you enter into a written agreement with Mr. Smith with reference to redeeming those lands from Baldwin, and subsequently buying them, if found to suit Smith? I call the witness' attention to "Defendants' Exhibit 'K' for Identification." Does that document bear your signature?

A. Yes, sir.

Q. Look at it, and see whether that is not the original contract entered into between you and C. A. Smith on the occasion of your first meeting?

A. Well, that was in December, January or February somewhere. 8th day of February. I was

(Testimony of S. A. D. Puter.)

under the impression it was December or January, but it is dated April 8th—or February 8th.

Q. Well, isn't that the correct date?

A. Well, I guess it is. It would not be signed and acknowledged unless it was. This is the 60 quarter sections. Oh, here is two documents.

Q. That is the list of the lands attached to it.

A. Oh, yes. This is the 60 quarter sections in Coos County.

Q. Yes. Well that is the only school land deal, or school land option that you ever had with Smith, isn't it?

A. Well, I sold him some school land. This land he didn't take at all.

Q. Yes. Well, I will get to that. Don't you recall that Senator Snyder drew that document?

A. Yes, sir.

Q. At your joint request—yours and Smith's?
[758—796½]

A. Yes.

Q. (Mr. McCOURT.) Do you want to introduce it for the purpose of showing the date merely?

Mr. LIND.—Yes, and other provisions in it. I prefer to offer the document, the contract part without the schedules. They are cumbersome and unnecessary. I offer it mainly, your Honor, for the purpose of fixing dates, and the testimony, I offer the contract portion of the exhibit.

Marked Defendants' Exhibit "K."

Q. Now, referring again to your book, I observed you say, "although my initial effort to do business with Mr. Smith terminated in failure." That was

(Testimony of S. A. D. Puter.)

this proposed deal outlined in the option agreement just introduced? That was your initial effort to do business with him? A. Yes, sir.

Q. "It served as an incentive to approach him concerning a proposition of greater magnitude." In this statement you have reference now to the redwood and fir deals? A. Yes, sir.

Q. That afterwards took place between you?

A. Well, I presume I did.

Q. You say: "At the time of our first meeting I had given him an option on 60 quarter sections of timbered school lands, aggregating 9,600 acres, situated in Coos and Douglas Counties, Oregon." That is the contract just introduced in evidence?

A. Yes, sir.

Q. Then, you say, upon your second visit to him when this had fallen through, you took up other matters. Where did you go, if you recall, after this document had been [759—797] executed on February 8th, do you recall where you went?

A. I went directly to San Francisco with a letter of introduction from Smith to Mr. Kribs.

Q. Well, now, let us see whether you went directly to San Francisco. We have some correspondence here that may throw light on this. See if we cannot refresh your memory. Didn't you go from Minneapolis to Chicago?

A. I may have went that way. Mind you, from the 8th of February to the first of March, that is only 22 days that I had to close that deal or lose my option in the 60 quarter sections.

(Testimony of S. A. D. Puter.)

Q. Yes, I know. But didn't you go to Chicago from Minneapolis?

A. I probably went to Chicago, and then straight through to Frisco.

Mr. UELAND.—We had yesterday a letter from Mr. Puter to Mr. Smith dated at Chicago, February 13th. We would like to find it. It was shown he was in Chicago at that time and going to leave for San Francisco on the evening of February 13th.

Q. Didn't you write C. A. Smith from Chicago February 13th, that you would leave that night for San Francisco?

A. I don't know. If there is a letter to that effect, I did. But it seems to me I surely could not have been five days on the road from Minneapolis to Chicago. If it is, I have forgotten about it.

Q. Didn't you telegraph Mr. McKinley from Omaha, Nebraska, on February 14 to this effect: "H. G. McKinley, Albany, Oregon. Say nothing more about 14-3 deal. Telephone me Friday evening San Francisco," or words to that effect?

A. Well, that I don't recollect unless I could see the [760—798] letter or telegram.

Q. Yes?

Mr. UELAND.—We ought to have that original McKinley correspondence.

Mr. McCOURT.—They are right here, I think.

Q. I call your attention to "Government's Exhibit." That is not marked.

Mr. LIND.—I ask to have this marked and offer it.

Mr. McCOURT.—You offer that for the purpose of showing the dates and location?

(Testimony of S. A. D. Puter.)

Mr. LIND.—Yes.

Marked Defendants' Exhibit "L."

Q. I call your attention to Defendants' Exhibit "L."

A. Yes, I presume I left Minneapolis, and went to see Mr. Baldwin at Appleton in order to inform him of the trade with Smith, and have him assign those certificates over. And I overlooked that. It delayed me, I presume, a day or two.

Q. Well, that is your letter? A. Yes, sir.

Mr. LIND.—I will read it into the record:

"Chicago, February 13, 1900.

C. A. Smith, Esq.,

Minneapolis, Minn.

Dear Sir: I gave authority in writing to-day to Mr. George Baldwin, of Appleton to assign over those certificates to the 60 quarter sections in Coos and Douglas County, State of Oregon. He has written you to that effect. As the certificates were in the vault, he did not care to look them up to get exact descriptions. Simply wrote that he would sign them over on the payment of the [761—799] \$15,000 on or before the first of March. I leave the coast on the 6:30 this evening"—I leave for the coast? A. Yes.

Q. "On the 6:30 this evening. Yours very truly, S. A. D. Puter. P. S." In pen and ink—I will let you read that, if you will.

A. "Mr. Baldwin will assign all of those certificates to you in the regular way, so there will be no need of my assigning."

Q. Now, you said that you took, when you left

(Testimony of S. A. D. Puter.)

Smith on the 8th of February, a letter of introduction to Mr. Kribs? A. Yes, sir.

Q. What was the object of that letter of introduction?

A. Well, it was informing Mr. Kribs of this contract that he had made with me, and to proceed to Coos County to inspect the lands.

Q. And to wire Smith as to their desirability, so that he could take up the contract before it lapsed? A. Yes, sir.

Q. On March 1st? A. Yes, sir.

Q. I notice there is this provision in the contract—this contract of February 8th: “The second party shall proceed to examine said timber lands, and it agrees if, upon such examination it finds that the representations contained in said schedules are true, to purchase said timber lands, within the time mentioned and pay the said sum of \$5.37½ per acre therefor.” A. Yes, sir.

Q. It is for the purpose of carrying out that provision of the agreement that you took this letter to Kribs? A. Yes, sir.

Q. At that time had you ever said a word to Smith or anyone [762—800] connected with him about any Linn and Lane lands—any lands in Linn County? A. No, I did not.

Q. Had you ever seen or met Kribs prior to that time? A. I think not.

Q. He was a stranger to you when you presented that letter of introduction to him, was he not?

A. Yes, sir.

Q. You wrote your partner McKinley from San

(Testimony of S. A. D. Puter.)

Francisco on Sunday the 18th—on Sunday, February 18th—and to him you used this language which I quote from the record: “To hell with that Northern Pacific man. No one can prove anything. Just keep quiet.” That referred to the troubles you had with reference to the lands in controversy in this suit, did it not?

A. Yes, sir, the contest the Northern Pacific filed against the entrymen.

Q. He had advised you of the institution of the contest? A. Yes, sir.

Q. You say: “One thing you had no right to tell anyone you had that land for sale. That man you wrote to in West Superior has offered to everyone in that country”—has offered them is understood—“to every one in that country for \$5.00 per acre.” Is that your understanding—that McKinley had written to someone in West Superior in regard to these 33 claims?

A. Does that purport to be a copy of a letter of mine?

Q. I will hand you the original.

A. That is my writing.

Q. That is your handwriting? A. Yes.

Q. Written by you to McKinley?

A. Yes, sir.

Q. Now, just keep that. I will ask you some more [763—801] questions in connection with it. In that letter you say: “I only seen one man there.” That means, East, does it not? A. Well—

Q. Read the letter over?

A. Yes, I see it.

(Testimony of S. A. D. Puter.)

Q. "And told him all about it, and to say nothing, for he is a man that understands all about the bus., and has lots of money. His name is I. S. Stevenson." Stevens or Stevenson?

A. Stevens.

Q. Was it Stevens or Ike Stevens?

A. No, Stevens of Saginaw, Michigan.

Q. Yes. "And he is in Portland now." Was that true, when you wrote it, that the only man you had spoken to about selling those lands eventually on your trip east was Stevens of Saginaw? In any event, you had not spoken to Smith about these lands at that time, had you?

A. No, I had not spoken to Smith, although I had him in view. I had not mentioned the tract to him. I might have written McKinley about Smith at some time in mentioning the deal, thinking that in all probability he was the man to tie to, as I thought he was a pretty favorable.

Q. A pretty big fish?

A. Yes; that he was looking for coast lands, and if we fell down on the other deal, I would go back on this.

Q. You thought he would be a likely fish to land when the time arrived, possibly, in your own mind?

A. Yes, sir.

Q. But you did say that this man I. S. Stevens was the man that you had in view for the Linn County—the Rock Creek lands—and you suggested that he was in Portland at that time? [764—802]

A. Yes, sir.

Q. You proceed and say: "I have known him a